

Annex 2
Response to NPPF (August 2026) – Application A

Site Address: Land South and East of Sittingbourne Kent

Planning Inspectorate Reference: APP/V2255/V/24/3355314

LPA Reference: 21/503914/EIOUT

Proposal: Southern Site. Outline Planning Application for the phased development of up to 577.48 hectares at Highsted Park, Land to the South and East of Sittingbourne, Kent, comprising of up to 7,150 residential dwellings including sheltered / extra care accommodation (Use Class C2 and Use Class C3). Up to 170,000 sq m / 34 hectares of commercial, business and service / employment floorspace (Use Class B2, Use Class B8 and Use Class E), and including up to 2,800 sq m of hotel (Use Class C1) floorspace. Up to 15,000 sq m / 1.5 hectares for a household waste recycling centre. Mixed use local centre and neighborhood facilities including commercial, business and employment floorspace (Use Class E), non-residential institutions (Use Class F1) and local community uses (Use Class F2) floorspace, and Public Houses (Sui Generis). Learning institutions including primary and secondary schools (Use Class F1(a)). Open space, green infrastructure, woodland, and community and sports provision (Use Class F2(c)). Highways and infrastructure works including the provision of a new motorway junction to the M2, a Highsted Park Sustainable Movement Corridor (inc. a Sittingbourne Southern Relief Road), and new vehicular access points to the existing network; and associated groundworks, engineering, utilities, and demolition works.

1. Background

- 1.1. This note is made on behalf of Swale Borough Council and relates to the Southern Application ref: 21/503914/EIOUT and provides an explanation as the extent to which Swale Borough Council considers the proposed development is consistent, or not, with the NPPF 2026.

2. Extent of consistency

2.1. Chapter 1: Introduction

- 2.1.1. Chapter 1 of the NPPF 2026 provides an introduction clarifying that the Framework sets out the government's policies for plan making and for making decisions on development proposals in England. It is a material consideration of critical importance in both contexts.
- 2.1.2. It is considered relevant that the NPPF 2026, whilst a material consideration of critical importance, does not have a statutory footing as the development plan. This is clarified by paragraph 3.
- 2.1.3. It is clarified that the thematic chapters in the NPPF 2026 contain both plan-making policies and national decision-making policies so that the approach to particular topics can be seen in the round. At paragraph 8, it is stated that the plan-making policies should not be used when making decisions on development proposals.
- 2.1.4. At paragraph 12, through reference to Annex A, it is clarified that several Written Ministerial Statements and other planning policy documents have been incorporated in the Framework and no longer represent up-to-date Government policy.
- 2.1.5. In relation to paragraph 17 and the overarching economic, social and environmental objectives, it is relevant to note that the fundamental approach remains the same. It is acknowledged that the opening sentence has changed, now specifically referencing providing homes, commercial development, facilities and infrastructure, but the objectives that feed into the overall aim of achieving sustainable development have remained largely unaffected.

2.2. Chapter 2: Plan making policies

- 2.2.1. Chapter 2 of the NPPF relates to Plan making policies, as these should not be used when making decisions on development proposals, they are not relevant in the context of this note.

2.3. Chapter 3 Decision making policies

- 2.3.1. Policy 'DM1: Preparing development proposals' requires major development proposals to be informed by early engagement with neighbours and the local community, as well as with the local planning authority, statutory consultees, infrastructure providers, registered providers of social housing and other relevant bodies where appropriate, to identify and seek to resolve key planning matters prior to the submission of a planning application.
- 2.3.2. The application underwent consideration by the Local Planning Authority prior to submission, and there is evidence that the application was modified to address matters raised at the pre-application stage. The application is of a sort to require an Environmental Statement, and screening and scoping opinions were undertaken, involving consultation with statutory consultees.

- 2.3.3. The Applicant engaged in consultation with neighbours and the community and this is reflected within the Statement of Community Involvement that accompanied the application. The application was also accompanied by a planning statement as required by section 1b of Policy DM1.
- 2.3.4. Policy 'DM2: Information requirements' relates to information needed to validate applications and it therefore now considered to be moot. The required information was provided and the application validated in 2022.
- 2.3.5. Policy 'DM3: Determining development proposals' relates to the approach Local Planning Authorities should take in determining applications. It is not relevant to the extent to which the proposed development is consistent with Government policies and, as the LPA is no longer the determining authority, it is considered that the application of this policy is for the Secretary of State rather than the Council. That being said, it is considered that the stance taken by the Council throughout does not conflict with DM3(f) and the requirement to "not refuse applications for development which should clearly be approved."
- 2.3.6. Policy 'DM4: Emerging development plan proposals' relates to emerging plans and the weight that can be given to them. In this instance, it is relevant that the Council is currently consulting on the Regulation 19 Draft Local Plan. The consultation period runs until 21st September 2026. It has to be acknowledged that the plan is at an early stage and this limits the weight it can be afforded. Moreover, as the consultation period is still on-going, at the time of writing it is not possible to clarify extent of objections that there will be to the plan, yet alone whether they will be resolvable or not at the time that the Secretary of State makes their decision. The most relevant policies have been set out within Annex 4 of the Council's response to the letter of 18th August 2026. It is acknowledged that they have been prepared in the context of the previous iteration of the NPPF. However, it is considered that they can still be afforded some weight in the assessment of this application.
- 2.3.7. Regardless of the weight that might be afforded to the emerging local plan, the evidence base that underpins the emerging plan is capable of being a material consideration to the determination of the current application. In this regard, it is noted that the Council has commissioned a Swale Housing Market Assessment Update (May 2026) which will be referenced below and can be found at Appendix 1 to this document.
- 2.3.8. Part 2 of DM4 relates to prematurity and states inter alia that development proposals should not be refused on the grounds of being premature, other than in the limited circumstances where both:
- a. *The development proposal is so substantial, or its cumulative effect alongside other development proposals would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and*
 - b. *The emerging plan is at an advanced stage but is not yet formally part of the development plan for the area. An emerging plan is unlikely to be in an advanced stage if a draft spatial development strategy, local plan, minerals and waste plan or supplementary plan has yet to be submitted for examination; or, in the case of a neighbourhood plan, the local planning authority publicity period on the draft plan has not ended.*
- 2.3.9. While the proposal would meet the threshold set out in DM4 Part 2a, the emerging plan has yet to be submitted for examination. Therefore, the development should not be refused on the grounds of being premature at this stage.

- 2.3.10. Policy 'DM5: Development viability' relates to financial viability, in this case there are substantial infrastructure costs (roads, schools etc) which means it is not viable for the development to meet all required planning obligations, including affordable housing and health care. Aligning with paragraph 59 of the former iteration of the NPPF, Policy DM5 sets out that *"It is a matter for the decision-maker, having regard to the circumstances under which the viability assessment is submitted, to assess the weight to be given to a viability assessment."* Accordingly, it is for the Secretary of State to decide the extent to which the shortcomings arising in respect of not providing the affordable housing that is needed by the community, as required by Policy HO7, should be outweighed by the viability considerations.
- 2.3.11. Policy 'DM6: Use of planning conditions and obligations', does not introduce any fundamental changes in comparison to the former iteration of the NPPF and the associated section of the Planning Practice Guidance. Planning conditions have been the subject of round table sessions during the Inquiry and the S106 legal agreement has been completed. It is trusted that the Inspectors report to the Secretary of State provides a robust set of conditions that will meet the applicable tests.
- 2.3.12. Policy 'DM7: Relationship with other regulatory regimes' and not duplicating matters that are controlled through other means has always been at the heart of the approach of the Council with respect to these applications, noting that the policy generally reflects the content of Planning Practice Guidance throughout the lifetime of the application.
- 2.3.13. Policies 'DM8: Unauthorised development and enforcement', 'DM9: Use of development orders', and 'DM10: Removal of national permitted development rights' are not relevant to the extent to which the proposed development is consistent with Government policies.

2.4. Chapter 4. Achieving sustainable development

- 2.4.1. The plan making policies S1 and S2 are not relevant to the extent to which the proposed development is consistent with Government policies.
- 2.4.2. Policy 'S3: Presumption in favour of sustainable development' requires that:
- 1. Decisions on development proposals should apply a presumption in favour of sustainable development. This means:*
 - a. Policy S4 in this Framework should be applied when considering development proposals within settlements;*
 - b. Outside settlements, policy S5 should be applied*
 - c. In all locations, development proposals that accord with both an up-to-date development plan and the decision-making policies in this Framework should be approved without delay*
 - 2. Where a development proposal falls partly within and partly outside a settlement, policies S4 and S5 should be applied to the relevant parts which are inside or outside of the settlement boundary (as appropriate), before coming to an overall view on the proposal."*
- 2.4.3. Policy 'S5: Principle of development outside settlements' states that only certain forms of development should be approved outside settlements, as set out in a list. These should be approved, unless the benefits of doing so would be substantially outweighed by any adverse effects, when assessed against the national decision-making policies in this Framework.

2.4.4. The list includes 10 matters listed 'a' to 'j', set out below are copies of the text in the list with commentary as to relevance and compliance:

a. Development for: agriculture, horticulture and forestry; outdoor sport and recreation; allotments; cemeteries and burial grounds; mineral extraction and processing; engineering operations and infrastructure (including for transport, energy and water); roadside facilities in accordance with policy TR5; national defence and security; or which is solely for nature conservation, restoration and/or enhancement

2.4.5. The proposal includes two sports hubs, one immediately north of the M2 motorway and another to the west of the Church of St Nicholas in the Rodmersham Church Street Conservation Area, the sports hubs would result in impacts to the landscape and the setting of heritage assets and the impacts of the wider development on the remainder of the site which are considered unacceptable in planning terms. The SRR would introduce highway infrastructure into the Kent Down National Landscape, traverse an Area of High Landscape Value and result in the loss of Ancient Woodland and other trees the subject of tree protection orders.

b. Development for rural businesses and services, including tourism, where a location outside settlements is shown to be necessary;

c. The re-use, extension, alteration or replacement of an existing building, provided that the existing building is of permanent and substantial construction, is lawful in planning terms, and any extension or alteration will not result in a disproportionate increase in size compared to the existing building. In the case of proposals for a replacement building, it should be for the same use and not disproportionately larger than the one it replaces;

d. The redevelopment of previously developed land (including a material change of use to residential or mixed-use including residential);

e. Limited infilling within groups of houses;

f. An exception site as provided for in policy HO10, or development brought forward under a Community Right to Build Order or Neighbourhood Development Order;

g. Development which would address an evidenced unmet need for gypsy, traveller or travelling showpeople accommodation, provided it meets the criteria in policy HO12;

i. The development of land allocated for that purpose in the development plan (where this lies outside settlements);

2.4.6. The proposal does not relate to the criteria set out in points b, c, d, e, f, g or i. While the Kent Science Park is the subject of a site specific Policy Regen 4, the proposals do not comply with that site-specific policy, and there is no site allocation that the proposed development relates to.

h. Residential and mixed-use development which would:

i. Be within reasonable walking distance of a well-connected station (applying the definitions in the glossary at Annex B);

ii. Be physically well-related to the station or the settlement within which the station is located;

iii. Be of a scale which can be accommodated taking into account the existing or proposed availability of infrastructure; and

iv. Not prejudice any proposals for long-term comprehensive development in the same location.

2.4.7. The development at its closest point is approximately 2.4km from the Teynham Railway Station, with the majority of the development located well beyond that distance, with the Highsted Village West new centre approximately 6km from the train station. The housing

proposed is not within a reasonable walking distance of the Teynham Railway Station, as per the definition set out in Annex B of the NPPF (2026).

2.4.8. Sittingbourne Train Station is approximately 1.5km from the Highsted Village North proposed residential enclave (not a reasonable walking distance), however the vast majority of the proposed housing is well beyond that distance and is not considered to be within reasonable walking distance of Sittingbourne train station.

2.4.9. The other matters are considered below but, due to not passing the first criteria, it is not considered necessary to address the others at this stage.

j. Development which would address an evidenced unmet need (including, but not limited to, development proposals involving the provision of housing where the local planning authority cannot demonstrate a five year supply of deliverable housing sites or scores below 75% in the most recent Housing Delivery Test²⁷), and where the development would:

- i. be physically well-related to an existing settlement²⁸ (unless the nature of the development would make this inappropriate) and be of a scale which can be accommodated taking into account the existing or proposed availability of infrastructure; or*
- ii. comprise major development for freight and logistic purposes which accords with policy E3.*

2.4.10. It is acknowledged that this exception can be enacted as the development would contribute towards meeting an evidenced unmet need as the Council is not able to demonstrate a 5 year supply of housing land and the outcome of the most recent HDT indicates that the score of the Council is 70%. However, there remains a requirement for the development to meet the other two criteria as applicable.

2.4.11. In relation to the first criteria, the compliance with the policy would be dependent on an assessment of whether the development is “*physically well-related to an existing settlement (unless the nature of the development would make this inappropriate).*”

2.4.12. In this regard, it is acknowledged that the “Highsted North” development would be physically well-related to the settlement of Sittingbourne. That development would sit within a designated Important Local Countryside Gap and, as such, there is a local plan policy conflict arising from the development being well-related to the settlement. However, for the purposes of the NPPF and Policy S5, it is accepted that that part of the development would comply.

2.4.13. Highsted Village East and Highsted Village west would be poorly related from any settlements. There would be no proximity to any built-up area boundary as designated by the adopted development plan. In this regard it should be noted that the parameter plan indicates the provision of a distinct buffer from the small settlement of Highsted.

2.4.14. Whilst Oakwood Village North would abut the settlement of Bapchild and there would therefore clearly be a relationship with that settlement, that ‘village’ would effectively double the size of the existing settlement and it is not therefore considered that the development would be “physically well-related.” As set out in relation to Application B also, it is respectfully suggested that “physically well-related” introduces scope to consider the qualitative aspects of the relationship between the development and the settlement which goes beyond an assessment of whether a site is simply adjacent or near to a settlement. In this case, it is considered that the extent of the development exceeds what can reasonably be considered to be physically well-related to the existing settlement.

- 2.4.15. This point is exaggerated when Oakwood Village East is considered. This is separated from Oakwood Village North by the proposed movement corridor and so it can be viewed either as a distinctly separate settlement or, if it is considered to be a further expansion of Bapchild, it compounds the view that the expansion would be so disproportionate to the existing settlement that it cannot be considered to be physically well-related.
- 2.4.16. Turning to exception j(ii) and development for major freight and logistic purposes, while the range of uses are proposed includes up-to 170,000sqm of commercial space (including Use Class E/B2/B8), the proposal is not simply for freight and logistics, it is a mixed-use scheme covering an area of 577.48 Ha and extends from land to the south of the M2 motorway and as far north as and slightly beyond the A2 / London Road. It includes 7,150 homes, local centres, schools, sports hubs etc, and the freight and logistics component cannot be disaggregated from the rest of the development.
- 2.4.17. Class E and B2 covers a range of other uses unrelated to freight and logistics and, as such, the employment space may not be occupied by freight and logistics uses. Policy E3: Freight and logistics states:
- 1. To support the effective and efficient movement of goods, development proposals for freight and logistics uses and associated infrastructure should:*
- a. Have good access to transport networks (including via sustainable transport modes where possible) appropriate to the type of development;*
 - b. Be sited and designed to limit environmental impacts (such as through the co-location or intensification of facilities to limit vehicle movements, and sensitive building design and landscaping). The impact on local residents or other neighbouring uses should be acceptable, taking into account proposed mitigation, especially where night-time activity will be required; and*
 - c. Provide sufficient and secure parking for lorries or other vehicles to cater for the anticipated use.*
- 2.4.18. The proposals include the SRR which would allow access to and from the M2 and connect to the NRR which would ultimately allow access to Swale Way and the A249 motorway. With the SRR the development has the potential to accord with part 1 (a) of Policy E3.
- 2.4.19. However, this requires major development within the Kent Downs National Landscape, loss of ancient woodland and significant harmful landscape and visual impacts. It can only be delivered in association with the entire development (not just freight and logistics). The location of the employment space is partly located in an Area of High Landscape Value, it would not be sited and designed to limit environmental impacts. Significant adverse residual landscape and visual impacts are identified as a result of the development (which is intrinsically linked to the employment space). The proposal would not accord with Policy E3.
- 2.4.20. For the reasons given, it is considered that the majority of the built development would not accord with any of the exceptions set out within Policy S5(1) and therefore the development is not one of the forms of development that should be approved outside of settlements and Policy S5(2) need not be considered. Policy S5(4) is therefore applicable, stating that development “*should only be approved in exceptional circumstances, where the benefits of the proposal would substantially outweigh the adverse effects, including to the character of the countryside and in relation to promoting sustainable patterns of movement.*” As set out throughout this submission and the Inquiry, there are harms that outweigh the benefits of the proposal and, therefore, exceptional circumstances to justify the development do not exist.

- 2.4.21. Policy 'S6: Neighbourhood plans and the presumption' does not apply to this case as there are no neighbourhood plans in place that relate to the site.

2.5. Chapter 5. Meeting the challenge of climate change

- 2.5.1. Policy 'CC1: Planning for climate change' relates to plan making and is not relevant to the application.

- 2.5.2. Policy 'CC2: Mitigation of climate change' sets out criteria development should meet, these are set out below with a comment as to the extent to which the proposal is consistent with the policy:

a. Accord with policies TR3 and TR4 so that sustainable patterns of movement are prioritised, opportunities are taken to improve walking, wheeling, cycling and public transport, and infrastructure is provided to support the transition to zero-emission vehicles;

- 2.5.3. The site is not well served by existing sustainable transport modes. That said the proposal includes a sustainable transport strategy, including funding for additional bus services and the proposal could potentially comply with this criterion.

b. Support good access to facilities in order to limit the need to travel, whether through the development's location, through development densities which improve catchment populations for local services, or by incorporating community facilities and premises to support local employment opportunities;

- 2.5.4. Local centres are proposed, along with primary schools, a secondary school and two sports hubs, play spaces and open space areas and nature parks. The proposal would comply with this criterion.

c. Use design approaches which conserve energy and other resources in accordance with policy DP3(2)(b);

- 2.5.5. The application is in outline form, and an energy strategy is proposed. There would be no reason the development could not accord with this criterion at the reserved matters stage.

d. Take advantage of opportunities to reuse existing structures and materials, including by reusing non-contaminated excavated soil and hardcore within the site;

- 2.5.6. No buildings would be reused, but subject to conditions being imposed on any consent, excavated soils could be reused.

e. Take advantage of opportunities to draw low carbon energy from decentralised networks (such as district heat networks), where these are available, and to co-locate energy and heat generators and users, especially to take advantage of suppliers of surplus heat and energy;

- 2.5.7. There are no decentralised networks available. The energy strategy is an all-electric solution and given the isolated location (where there are no suppliers of surplus heat and energy), the approach is considered appropriate and acceptable at this stage of the planning process.

f. Contribute to the creation or restoration of habitats which can act as carbon stores, such as through woodland planting and peatland restoration, while avoiding harm to habitats which can act as important carbon stores, including peatland and salt marsh;

- 2.5.8. No objection has been raised on the grounds that the proposal could impact on habitats that act as important carbon stores.

g. Not involve the extraction of fossil fuels unless it is in accordance with policy M5.

- 2.5.9. No extraction of fossil fuels is proposed.

2. Substantial weight should be given to the benefits of improving the energy efficiency of existing buildings and/or drawing energy from district heat networks, renewable and low carbon sources (including through the installation of heat pumps and solar panels where these do not already benefit from permitted development rights) where this would be achieved through proposals for development.

- 2.5.10. The proposal is for an all-electric solution, and through solar panels and connections to and from the national grid, the proposal set out in the Sustainability and Energy Statement (CD7.15) is that the strategy is based on a fabric first approach, utilising passive design measures, well insulated and airtight building fabric and high efficiency lighting and ventilation systems.

- 2.5.11. In addition to the passive design and energy efficiency measures noted above, a site wide local renewable or low carbon energy strategy will achieve a substantial saving in carbon emissions, in excess of those required by planning policy. This strategy includes a gas free solution with air & ground source heat pumps providing space and water heating, and a substantial PV array across the whole site connected to battery storage to show how the development can achieve net zero carbon by offsetting both the regulated and unregulated building emissions. The proposal is consistent with part 2 of policy CC2.

- 2.5.12. Policy 'CC3: Adaptation to climate change' states that development proposals should take into account the current and potential impacts of climate change over the lifetime of the scheme, and in order to minimise vulnerability to these impacts the policy sets out various matters development should comply with. In general, the proposals are consistent with the requirements or capable of being made compliant with this policy through the use of previously drafted conditions. In relation to e) wildfire risk has not previously been considered and has not been referenced in comments from the Fire and Rescue Service. Noting that the site would feature areas of country parks, parklands and woodland, if the Secretary of State thought the site were to be at particular risk, the Council would have no objection to the imposition of a condition relating to wildfire risk mitigation.

- 2.5.13. Policy CC3(2) relates to the adaptation of existing buildings and public spaces and is not considered to be applicable to the proposal.

2.6. Chapter 6. Delivering a sufficient supply of homes

- 2.6.1. The introductory text to this chapter sets out that the overarching objective of the policies is to support the delivery of a substantial increase in the supply of homes by ensuring that a sufficient amount and variety of land can come forward where needed, going on to state that this *"includes planning for an appropriate mix of accommodation for the local community and ensuring that land with permission is developed without unnecessary delay."* Recognising the aim of the NPPF 2026 to increase the supply of housing land, it is considered important to reflect that there are key caveats about providing an appropriate for the local community and avoiding delays. It is respectfully suggested that

the infrastructure requirements (such as the bridge over the railway line that would be required for the relief road) would inherently take time to be fully consented and delivered and this in turn would have an impact on the timeline for the delivery of the housing. These have always been key components of the Council's case and it is considered that the NPPF 2026 compounds the relevance of these factors.

- 2.6.2. NPPF policies HO1 to HO6 relate to plan making policies are not relevant to the determination of the application.
- 2.6.3. In terms of national decision-making policy 'HO7: Meeting the need for homes' states inter alia that substantial weight should be given to the benefits of providing homes that will contribute towards meeting the evidenced needs of the community, taking into account any need assessments prepared for the area and other relevant evidence (including evidence related to the needs of different groups as referred to by Policy HO1).
- 2.6.4. If supported, the permission would exist for up to 7,150 dwellings. It is acknowledged that this would contribute towards meeting an identified overarching evidenced need as the Council is not able to demonstrate a 5 year supply of housing land. Through the outcome of the most recent HDT it is recognised that there is a need for more housing to be delivered but it is considered unlikely that any housing would be delivered as a result of this development in the short term and it is unlikely that the development would make a contribution to the 1.5 million home target for the current government.
- 2.6.5. Turning to the more bespoke needs of the community, it is considered relevant to highlight that the Council's evidence base has evolved through the publication of the Housing Market Update Assessment. This is part of the evidence base for the emerging local plan and demonstrates, at section 8.4, a need for 28.4% of the Boroughs housing growth to be affordable. This amounts to 304 out of 1,071 dwellings per annum. The report goes on, at section 8.6 and figure 8.1 to demonstrate that 15.9% of all developed housing should be Affordable Rented or Social Rented and 7.4% of all housing should be Affordable Home Ownership. Of the affordable housing, 50.6% is forecast to be needed to be Social Rented, and 17.6% should be affordable rented.
- 2.6.6. Policy 'HO8: Providing affordable homes' requires that development proposals should meet or exceed up-to-date development plan requirements for the proportion and mix of affordable housing tenures relevant to the location, including the minimum proportion of Social Rent.
- 2.6.7. The position of the Council has been that the applicable development plan policy (DM8) requires 40% affordable housing provision at this site, albeit there is scope within the policy for viability to be factored into this. The justification for this has been discussed previously and it is not considered necessary to repeat that commentary.
- 2.6.8. The Applicant has submitted a draft affordable housing schedule which sets an upper housing target of 27.7% for any increase in affordable housing identified in a viability review. The applicant advises this reflects a borough wide average set out in the Council's Housing Market Assessment 2020 (CD27.2.2).
- 2.6.9. The Applicant's proposal to limit any additional affordable housing identified through viability reviews to an overall cap of 27.7%, in areas of the site where 40% is required conflicts with Local Plan Policy DM8, and there is an objection to the proposal in this regard.
- 2.6.10. The Section 106 agreement secures between 16.7% and 22.5% affordable housing as the Affordable Housing Base Provision depending on other financial contributions, of

which 60% would be social rented and/or affordable rented dwellings and 40% would be intermediate. There is scope to achieve an uplift as a result of viability reviews which are secured by the Section 106. However, the evidence available indicates that there will be a shortfall relative to the identified needs of the Borough and, by extension, it is inevitable that the minimum needed proportion of Social Rent affordable housing would not be forthcoming.

- 2.6.11. Policy 'HO9: Specialist forms of accommodation' relates to proposals to address specialist housing needs. While the proposal has the flexibility to deliver specialist accommodation (extra care accommodation), this is not secured, and cannot therefore be relied upon as part of the offering or contribution of the development towards meeting the need that is known to exist for such accommodation, as set out in adopted local plan policy CP3.
- 2.6.12. Policies HO10, HO11 and HO12 are not relevant to the determination of the application.
- 2.6.13. Policy 'HO13: Build out of residential and strategic sites' relates to the timely delivery of homes, stating that land with permission should be developed without unnecessary delay and that *"proposals for major development involving the provision of housing should be capable of bringing the housing forward within a reasonable period, taking into account the proposed tenure mix for the development, local market conditions (including absorption rates) and the development history of the site."*
- 2.6.14. In terms of timely delivery of homes, the Phasing Plan indicates infrastructure such as the SRR would be delivered first, with housing being delivered over a period of between years 2 and 20. It would not be acceptable to allow the delivery of housing unless it is accompanied by necessary infrastructure (such as the roads needed to access the homes).
- 2.6.15. Concern is raised as to whether such a large amount of infrastructure (which includes for example a new Junction to the M2, the SRR, numerous other junctions and interchanges) could be delivered within 2 years. If a longer construction time frame was needed, then housing delivery would be delayed.
- 2.6.16. The proposed infrastructure (which includes the SRR, a junction connecting to the M2 motorway) would take considerable time to be delivered meaning delivery of housing would be delayed. National Highways advised that it can take a considerable period to obtain the requisite consents to introduce the new junction to the M2. The junction and SRR would then need to be constructed. There is little scope to speed up delivery of housing and there is a lack of clarity over the extent to which the proposed housing would actually contribute towards the Council's 5 year housing land supply or improve its position in relation to the HDT.
- 2.6.17. In addition, the application is in outline form and it would take time to work up detailed proposals and for reserved matters approvals to be secured, particularly given that the 'three stage' approach that is proposed by the applicant would create an extra tier of approvals to be granted.
- 2.6.18. Paragraph 2 of Policy HO13 indicates that consideration should be given to the imposition of conditions to require development to be begun within a shorter timescale. For the reasons given above, there appears to be little scope to speed up delivery of housing through that method.
- 2.6.19. Paragraph 3 of Policy HO13 is integrally built into the proposal by virtue of the application being in outline and there being flexibility to the type of housing that would be provided,

particularly the mix of affordable housing being addressed with flexibility in the Section 106 agreement.

- 2.6.20. Paragraph 4 of Policy HO13 states that *“where an emerging development plan (however advanced) proposes to allocate one or more strategic sites, development proposals should not be inconsistent with the proposed scale, location and phasing of those strategic sites. This applies notwithstanding the application of policy DM4(2) where relevant.”* In this instance it is relevant that the site is not allocated and, having regard to the DHA letter, its accompanying submissions and the response to those submissions that is provided by Annex 4 of the Council’s submission, it is considered that the proposal that is the subject of Application A, would run contrary to the strategic development locations that have been identified within the emerging local plan. If an additional committed development to the extent of 7,150 dwellings was approved, there must be a prospect that this could undermine the delivery of the identified strategic sites that are proposed to be allocated for development. It is considered particularly relevant to note that the emerging site allocations can be afforded weight through this policy even though the emerging plan is at an early stage, as clarified by the inclusion of “however advanced” within the Policy text.
- 2.6.21. Overall, whilst the scheme is consistent with some parts Chapter 6 (read in isolation), the proposal is not consistent with several important elements of that Chapter. Taken as a whole, the proposal is not consistent with Chapter 6 of the NPPF.

2.7. Chapter 7. Building a strong, competitive economy

- 2.7.1. The application seeks approval for up to 170,000sqm of employment space and the Outline Development Specification (ODS) sets out that 18,510sqm in mixed use local centres, and a hotel is also proposed. If delivered, household spending by the future population living in the housing would flow into the economy, during construction (including construction of highway infrastructure) there would be construction jobs and spending.
- 2.7.2. In relation to Chapter 7 of the NPPF its noted Policy E1 relates to plan making and is not relevant to the determination.
- 2.7.3. Policy ‘E2: Meeting the need for business land and premises’ states inter alia that substantial weight should be given to the economic benefits of proposals for commercial development which allow businesses to invest, expand and adapt; especially where this would support the economic vision and strategy for the area, the implementation of the Industrial Strategy, support improvements in freight and logistics and/or reflect proposals for Industrial Strategy Zones and AI Growth Zones.
- 2.7.4. The proposed employment space would form an extension to the Kent Science Park (outside of the designated built-up boundary) and would wrap around the existing Science Park. Local Plan Policy Regen 4 relates to the Kent Science Park, the policy sets out criteria to be met for proposals in and around the Kent Science Park. This includes a requirement that proposals comprise uses compatible or complementary to the use of the site as a ‘Science Park’.
- 2.7.5. There is no guarantee (plans or proposals) that the employment space would in fact be complimentary or compatible with the Science Park. Reference is made to the Economic Opportunity Statement (CD7.17 page 6, Table 2.4) which indicates 9,476sqm of space would be for Office/R&D/Light industrial, the balance (over 150,000 sqm of space) in the Economic Opportunity Statement the balance is assumed to be industrial and

warehousing space. However, there is no guarantee that even 9,476sqm of space would be for Office/R&D/Light industrial or in any way complimentary to the Science Park.

- 2.7.6. The range of uses proposed around the Kent Science Park includes Use Class E. Class E includes traditional office space and a range of other activities. If occupied by town centre type uses these would be out of centre in the location proposed, with the quantum of space proposed there is the potential to adversely impact demand for in existing centres uses (with implications for town centre vitality and viability). If the proposed space is used in this way it would not be beneficial to the vitality and viability of existing centres.
- 2.7.7. The Council's recent Employment Land Review (ELR) October 2023 (CD15.7) found an additional industrial land need requirement of 73ha (with a demand of 48ha, plus a margin of 25ha). The ELR identifies land where employment space need could be met and prioritises those sites. The Application site is not identified as a preferred location for employment land.
- 2.7.8. The sites identified in the ELR are preferable to the application site in terms of location, for example they benefit from being well related to existing transport connections, employment areas and to the labour force. To provide significant levels of employment space in the location proposed in this application, risks an adverse impact upon the demand for space in preferable locations.
- 2.7.9. The introduction of employment space in this location also results in a number of other harms, which are discussed in the subsequent sections of this PoE.
- 2.7.10. NPPF Policy E2 also places substantial weight on the benefits for domestic food production, animal welfare and the environment which can be demonstrated through proposals for development for farm and agricultural modernisation. This is not proposed, the scale of the development means that there would no longer be a rural economy in this location as a result of the development.
- 2.7.11. Agricultural operations at the site would largely end and large tracts of the site (including Best and Most Versatile land) would become a built-up area with no rural characteristics. Therefore, whereas the site currently contributes to the rural economy, this proposal would be of no benefit to the rural economy.
- 2.7.12. Policy 'E3: Freight and logistics' is relevant, as the range of uses are proposed includes up-to 170,000sqm of commercial space (Use Class E/B2/B8), and could include freight and logistics. That said the proposal is not simply for freight and logistics, it is a mixed-use scheme covering an area of 577.48 Ha and extends from land to the south of the M2 motorway and as far north as and slightly beyond the A2 / London Road. It includes 7,150 homes, a hotel, local centres, schools, sports hubs etc, and the freight and logistics component cannot be disaggregated from the rest of the development. It would not be financially viable to deliver the SRR without the rest of the revenue generating development, i.e., the proposal is not for simply major development for storage and distribution purposes.
- 2.7.13. Use Class E and B2 covers a range of other uses unrelated to freight and logistics (the employment space may not be occupied by freight and logistics uses). Policy E3: Freight and logistics states:
 1. *To support the effective and efficient movement of goods, development proposals for freight and logistics uses and associated infrastructure should:*
 - a. *Have good access to transport networks (including via sustainable transport modes where possible) appropriate to the type of development;*

b. Be sited and designed to limit environmental impacts (such as through the co-location or intensification of facilities to limit vehicle movements provision of electric vehicle charging infrastructure and sensitive building design and landscaping). The impact on local residents or other neighbouring uses should be acceptable, taking into account proposed mitigation, especially where night-time activity will be required; and

c. Provide sufficient and secure parking for lorries or other vehicles to cater for the anticipated use, in accordance with policy TR4(1)(e).

- 2.7.14. The proposals include the SRR which would allow access to and from the M2 and connect to the NRR which would ultimately allow access to Swale Way and the A249 motorway. With the SRR the development has the potential to accord with part 1 (a) of Policy E3.
- 2.7.15. However, this requires major development within the Kent Downs National Landscape, loss of ancient woodland and significant harmful landscape and visual impacts. It can only be delivered in association with the entire development (not just freight and logistics). The location of the employment space is partly located in an Area of High Landscape Value, such that it would not be sited and designed (given the height shown on parameter plans) to limit environmental impacts. Significant adverse residual landscape and visual impacts are identified as a result of the development (which is intrinsically linked to the employment space). Ancient Woodland would be lost to create the SRR. Therefore, by not limiting environmental impacts, the proposal would not accord with Policy E3.
- 2.7.16. Policy 'E4: Rural business development' is not relevant to the determination of the application.
- 2.7.17. Whilst incorporating a non-residential element that would have the potential to be of economic benefit, the proposal would undermine the contribution that the site makes to the rural economy and there is no certainty that the proposal would address any established requirements.
- 2.7.18. Whilst the scheme is consistent with some parts of Chapter 7 (read in isolation), the proposal is not consistent with several other important elements of that Chapter. Taken as a whole, the proposal is not consistent with Chapter 7 of the NPPF.

2.8. Chapter 8. Ensuring the vitality of town centres

- 2.8.1. The application proposes mixed-use centres to serve the development. The Outline Development Specification (CD54.4.1) states that the overall mixed use centre floor space would equate to 18,510sqm across the four different centres proposed. The application states the range of uses anticipated would include convenience retail, office space, space for community infrastructure, café and leisure uses.
- 2.8.2. A number of the uses proposed in the mixed-use centre are known as main town centre uses and the NPPF and Local Plan take a Town Centres first approach (directing town centre uses to town centres first).
- 2.8.3. Policy 'TC3: Main town centre uses outside town centres' states that a sequential test should be applied to proposals for main town centre uses for which planning permission is required, where these are neither in an existing centre nor in accordance with an allocation for that purpose in an up-to-date development plan.

- 2.8.4. Part 4 of Policy TC3 states: Where a development proposal fails to satisfy the sequential test or is likely to have a significant adverse impact on one or more of the considerations in policy TC4, it should be refused.
- 2.8.5. Policy 'TC4: Assessing the impact of development on town centres' at part 1 states: Development proposals for retail and leisure uses located outside town centres should be accompanied by an impact assessment. The application is supported by Retail Statement.
- 2.8.6. Part 2 of Policy TC4 states
- 2. In circumstances where an impact assessment is required, it should be demonstrated that the development would be unlikely to have a significant adverse impact on:*
- a. Existing, committed and planned public and private investment in a town centre or centres in the catchment area of the proposal; and*
- b. Town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).*
- 2.8.7. The application is supported by Retail Statement which examines the impact of the proposal in terms of retail trade diversion. The increased demand and spending generated by future occupants of the scheme and growth in the borough, means there would be no undue retail trade diversion from existing centres.
- 2.8.8. If approved the proposed mixed-use centres would be needed to serve the day-to-day needs of the new population. Having regard to the site's distance from shops in Sittingbourne, Bapchild and Teynham, it would reduce the need for future occupiers to travel for basic essential services.
- 2.8.9. Subject to the delivery of main town centre uses, such as retail and food/beverage floorspace being linked to the delivery of housing to ensure there would be no unacceptable trade diversion from existing centres (this would need to be secured by way of an condition on any consent)), the proposals could avoid an adverse significant impact on the vitality and viability of existing centres.
- 2.8.10. For the most part the mixed-use centre is simply needed to serve the needs of the future population living in the proposed housing.
- 2.8.11. While the proposal is not consistent with Chapter 8, given the extent of housing proposed, should the application be approved, there is a logical rationale for having the proposed mixed use local centres on site.
- 2.9. Chapter 9. Supporting high quality communications,**
- 2.9.1. Chapter 9 is not relevant to the determination of this application.
- 2.10. Chapter 10. Securing clean energy and water.**
- 2.10.1. Policies W1 and W2 are plan making policies and decision making policies W3 and W4 are considered to be related to those types of infrastructure development rather than considering the implications of development on existing infrastructure. They are not, therefore, material to the assessment of the application.

2.11. Chapter 11. Facilitating the sustainable use of minerals

- 2.11.1. Policy 'M6: Safeguarding mineral resources and infrastructure through decision-making' is clear that non-mineral development should not constrain potential future use for mineral working in a Mineral Safeguarding Area and not prevent or constrain the use of existing, planned and potential sites for mineral related works. The policy also includes a requirement for the decision-making authority to consult the mineral planning authority and take account of the local minerals plan before determining the planning application, with the prior extraction of materials being encouraged.
- 2.11.2. The KCC Minerals and Waste Authority were consulted as part of the application and advised that two parts of the southern site comprise potentially viable reserves of brickearth. In order to ensure that these two areas are not sterilised, a draft condition requiring the prior assessment of the potential for brickearth extraction before any development commences in those locations was put to the Inspector during the course of the Inquiry. Subject to such a condition, the proposals could avoid sterilising a viable deposit of brickearth at the site, such that the application could be considered consistent with Chapter 11 of the NPPF, namely policy NM4(1)(a) and NM4(3)..

2.12. Chapter 12. Making effective use of land

- 2.12.1. Policy 'L2: Making effective use of land' indicates that substantial weight should be given to developments that achieve one or more of four criteria. None of those criteria are applicable to this proposal.
- 2.12.2. At paragraph 1 of Policy L3 (Achieving appropriate densities) it is stated that "*development proposals should make efficient use of land, taking into account the identified need for different types of housing and other development, local market conditions, the availability of infrastructure (including that supporting sustainable transport modes) and its scope for improvement, a site's connectivity and the importance of securing well-designed, attractive and healthy places.*" This approach is noted and, if applicable, would be factored into the assessment of applications for the approval of reserved matters.
- 2.12.3. At paragraph 2b it is states that to contribute to making efficient use of land outside of settlements, development footprints should make the best use of a site's development potential. As the application is in outline form, it is considered that there would be scope to achieve this.
- 2.12.4. At paragraph 2c it is stated that, where development proposals for residential or mixed-use schemes are within reasonable walking distance of a well-connected railway station, a density of at least 35 dwellings per hectare should be achieved within the net developable area of the site. As set out above, Teynham station does not constitute a well-connected station having regard to the definition at Annex B of the NPPF 2026 and the development would not be within reasonable walking distance of the station.
- 2.12.5. The Outline Development Specification (CD54.4.1 see para 5.24) states that the average residential density across the Proposed Development is proposed to be up to 42.31 dwellings per hectare. Residential densities range from 45 and 65 dwellings per hectare for Mixed-Use Local Centres and more central locations and then reduce to 35 dwellings per hectare toward the perimeter of the Site. Notwithstanding the overriding objections to Council has to the development as a whole, there is no objection to the proposed density in isolation given it would make efficient use of land.

2.13. Chapter 13. Protecting Green Belt land

- 2.13.1. Chapter 13 is not relevant to the determination of this application.

2.14. Chapter 14. Achieving well-designed places

- 2.14.1. Policy 'DP3: Key principles for well-designed places' states that *"development proposals should respond to their context (the history, character and features of their site and its setting), so that they integrate with and enhance their surroundings; such as through the arrangement of development plots and buildings, the use of materials and architectural features, and the restoration, reuse and integration of heritage assets."*
- 2.14.2. The proposal would harm the setting of heritage assets, the SRR is proposed to introduce major development in the Kent Downs National Landscape and traverse the Highsted Wood resulting in the loss of ancient woodland, and the SRR and development would cause harm to the Area of High Landscape Value, the proposal would not respond well to the history, character and features of the site and its setting. It could not be said to integrate into or enhance its surroundings,
- 2.14.3. The policy goes on to state that to create well-designed places development proposals should address a variety of matters. Footnote 45 states that the principles for creating well-designed places are described more fully in Part 1 of the Design and Placemaking planning practice guidance, points a to g in policy DP3 forming the seven features of well-designed places described in the guidance, all of which are informed by context (paragraph 1). It is considered that those elements could generally be addressed through reserved matters applications or conditions if outline planning permission was granted. The same is also true for the application of Policy DP4.
- 2.14.4. Whilst there are some aspects of Chapter 14 of the NPPF that could be complied with at reserved matters stage if taken in isolation, there is conflict with the Chapter in other respects.

2.15. Chapter 15. Promoting sustainable transport

- 2.15.1. The proposal includes the Sittingbourne Southern Relief Road (SRR). This would extend from The M2 motorway in the south to London Road, connecting to the NRR. Clearly a development of this scale would result in significant amounts of traffic during construction and operational phases.
- 2.15.2. Policy 'TR3: Locating development in sustainable locations' at part 1, a states in part: *Development proposals which could generate a significant amount of movement, in the context of the area within which they would be situated, should be in locations that are sustainable (or which can be made so, taking into account planned improvements, including any provided for as part of the development itself). This means the location should limit the need to travel, particularly by private car, and offer a genuine choice of transport modes for residents and users, unless the nature of the development would make this impractical.*
- 2.15.3. It is proposed to create a Sustainable Movement Corridor (SMC), which would extend from the proposed Highsted Villages in the south, via a junction to Highsted Road, up to the proposed Oakwood Villages in the north. If approved, conditions and/or planning obligations would be necessary to ensure the timely delivery of highway infrastructure, including the SMC.

- 2.15.4. Subject to securing the various mitigation measures and STS proposals put forward in the application and required by relevant consultees (secured by way of condition/or and planning obligation on any consent) the proposals would mitigate the impacts of the development to the extent that the proposal could be consistent with Policy TR3.
- 2.15.5. Policy 'TR4: Street design, access and parking' and states that to contribute to creating well-designed places, transport considerations should be integral to the design of development, proposals. The policy goes on to set out various matters proposals should accord with.
- 2.15.6. Insofar as it is an outline application, with all matters reserved (including access), the proposal is considered consistent or capable of being made consistent with Policy TR4.
- 2.15.7. NPPF Policy TR6: Assessing transport impacts' part 3 includes a threshold for refusal of planning applications due to highway impacts stating that the impact would have to be a severe adverse impact.
- 2.15.8. In many respects the highway related proposals are hypothetical at this stage. Therefore, the proposals could potentially be acceptable and accord with the requirements of Policy TR6. However at this stage it can only be assumed that the proposal could be made acceptable. To be acceptable in principle, it is critical that any consent secures the early delivery of highway infrastructure and that the implementation of sustainable transport measures occurs alongside occupation. Delivery of high-quality streets, pedestrian and cycleways, parking provision, arrangements for servicing and all other access requirements would need to be secured.
- 2.15.9. In view of the severity test set out at Policy TR6: Assessing transport impacts part 3 of the NPPF) the scheme was considered by the Local Highway Authority and National Highways who initially raised concern in relation to the highway impacts of the development. However, since that time the Applicant has provided further information which alleviates the concern raised by the KCC Highway Authority and National Highways (no objection is now raised).
- 2.15.10. As with the Northern Application, highway modelling shows that the mitigation is required. If approved, measures would be required to secure the offsite highway mitigation works. The timing for delivery of the SRR is critical, it would need to be delivered ahead of the residential and commercial elements. Conditions should be imposed on any consent to ensure the highway infrastructure is delivered as proposed.
- 2.15.11. The Southern Application is reliant upon the highway infrastructure (namely the NRR which is supported by Local Plan Policy AS1) proposed within the Northern Application. If the SRR does not connect to the NRR then traffic using the SRR would be heavily reliant on the A2, leading to unacceptable highway impacts.
- 2.15.12. Therefore, the SRR should not come forward unless the highway infrastructure (namely the NRR) proposed in the Northern Application comes forward and connects to the SRR. Planning obligations and conditions would be needed to link any planning permissions and control timing and delivery of the highway infrastructure. Equally, should the Northern Application be refused, then there would be a fundamental objection to the highway infrastructure and associated impacts proposed in the Southern Application.
- 2.15.13. The Statement of Common Ground between KCC Highways and the Applicant states: The delivery of the SRR and new M2 junction fulfil the identified strategic need for this critical piece of new infrastructure to support economic growth. Given the view of the

Highway Authority, the delivery SRR represents a highway benefit within the planning balance; however, there would also be environmental disbenefits which also need to be reflected within that balance.

- 2.15.14. Subject to conditions and planning obligations being imposed on any consent, the Council does not contend the development would be inconsistent with Policy TR6 of the NPPF or the local development plan. However, the SRR would result in harms, particularly to the landscape (the Kent Down National Landscape, and the Area of High Landscape Value) and result in a loss of Ancient Woodland.
- 2.15.15. Policy 'TR8: Public rights of way' sets out criteria for development effecting PROW. The proposed development would both sever and fragment the existing network of Public Rights of Way (PRoW) over a considerable area. There is a clear need for solutions to mitigate the impact to the network given the scale of the development proposed.

2.16. Chapter 16. Promoting healthy communities

- 2.16.1. Policy 'HC3: Community facilities and public service infrastructure serving new development' requires proposals that would give rise to significant numbers of additional people living in, working in or visiting an area to be informed by an understanding of the need for any associated improvements to community facilities and public service infrastructure, whether on or off-site and provide for community facilities and improvements to public service infrastructure which are necessary for the development to be acceptable in planning terms.
- 2.16.2. The proposal would provide on-site educational facilities and funding for health care facilities, two sports hubs are proposed. The proposals would largely accord with the locally set standards for greenspace provision. Planning obligations are required for various matters to ensure infrastructure is able to cope with the additional population. These are set out in the S106 legal agreement which has now been finalised.
- 2.16.3. The Applicant has not agreed to provide funding for acute care, and this is subject to a 'blue pencil' clause in the legal agreement. The Council's view is that funding for acute care is required.
- 2.16.4. Policy 'HC7: Development affecting existing recreation facilities' is clear that development proposals should not result in the loss of existing open space, sports and recreational buildings and land, including playing fields, other formal and informal play space and allotments, unless certain criteria are met. The proposal would displace the Sittingbourne Football Club, tennis court and a bowling green. These would be re-provided within the proposed sports hubs. No objection is raised in relation to compliance with NPPF policy HC7.
- 2.16.5. Subject to proposals for health (including acute care) and other social infrastructure being secured being secured, along with a landscape and ecological management plan, stewardship of green infrastructure, the development could comply with Chapter 16 of the NPPF.

2.17. Chapter 17. Pollution, public protection and security.

- 2.17.1. Policy 'P2: Ground Conditions' seeks to ensure contamination and land stability issues are appropriately mitigated and remediated, and subject to conditions being imposed on any consent to secure this the policy would be complied with.

- 2.17.2. Policy 'P3: Living conditions and pollution' requires development proposals to be appropriate for their location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment. There had initially been concerns raised in relation to air quality impacts, however the Applicant addressed these to the satisfaction of the Council's Environmental Health Officer, including through updates to the Environmental Statement.
- 2.17.3. The application is in outline form, and the detailed design of dwellings would follow at the reserved matters stage. There is no reason access to light and avoiding exposure to levels of air, noise, artificial light or other sources of pollution which could have an unacceptable adverse effect on health and wellbeing could not be controlled at the detailed design stage.
- 2.17.4. Policy 'P4: Impact of development on existing activities' seeks to ensure proposals do not harm existing amenity or operations and the development would accord with this policy.
- 2.17.5. Policy 'P5: Maintaining public safety and security' could be complied with subject to conditions being imposed on any consent to comply with the consultation response from the Kent Police in terms of designing out crime.

2.18. Chapter 18. Managing flood risk and coastal change

- 2.18.1. The site is affected by surface water flooding and Policy 'F4: Assessing flood risk for decision-making' requires a flood risk assessment and sequential test if development is affected by any source of flooding. Policy F5 relates to the sequential test, and in relation to this a sequential test was provided, as set out at paragraph 7.19.6 to 7.19.31 of the Committee report (CD12.1) the proposal satisfies the sequential and exception tests.
- 2.18.2. Subject to conditions and planning obligations the application would accord with Chapter 18 of the NPPF.

2.19. Chapter 19. Conserving and enhancing the natural environment

- 2.19.1. Policy 'N2: Improving the natural environment' states that to contribute positively to the natural environment and support nature's recovery development proposals should inter alia:
 - a. Consider the environmental qualities of land proposed for development, including habitats, landscape character and the natural beauty of the countryside, and identify opportunities for those qualities to be conserved or enhanced (including through requirements for biodiversity net gain where these apply);*
- 2.19.2. The proposal would not conserve or enhance the habitats, landscape character and the natural beauty of the countryside.
 - b. Take into account the quality of agricultural land (including that classified as best and most versatile agricultural land, and its grade), and if significant development of agricultural land is necessary, use areas of poorer quality land where possible;*
- 2.19.3. The application is accompanied by an Agricultural Land Classification report which assesses the quality of the agricultural land and concludes that 69% (399.5 Ha) of the site is BMV (CD9.2.85, see Table 2 at PDF page 8 and the map at PDF page 16 (most of the BMV is Grade 2)). This would be lost from agricultural use.

2.19.4. Statement 3 of the Local Plan (CD13.1 PDF page 85) sets out the importance of Swale's agricultural sector. The statement highlights the value to the Boroughs economy of arable farming. It is estimated that there are between 1,250 and 2,500 FTE jobs in agriculture and food and drink manufacture in Swale. This represents approximately 3 - 5% of the FTE jobs in Swale. BMV can also provide other 'ecosystem services' benefits such as flood water storage, ecological and landscape values.

2.19.5. The site is not allocated, and it is common ground that this application should only come forward in conjunction with the Northern Application due to concerns over highway impacts. In view of the loss of agricultural land that would be lost across both sites (CD3.2.30 see Table 4.3 shows 78.9ha of BMV on the Northern site) i.e., 478.4Ha across both sites, the development would lead to likely accumulated and significant losses of high-quality agricultural land.

c. Take suitable opportunities to connect to and strengthen ecological networks that extend beyond the site, drawing on the measures proposed by Local Nature Recovery Strategies, National Forest Strategies and Community Forest Plans, where present, and other relevant assessments;

2.19.6. The proposals would sever rather than strengthen ecological networks, while mitigation measures are proposed, there would for example be severance between the Highsted Wood and the adjoining former chalk pit (local wildlife site) to the north of Highsted Wood. As detailed plans have not been submitted for the SRR and the Environmental Statement has confirmed the design may change, it is possible that the area of ancient woodland to be impacted by the works could increase. Until the design of the link road has been agreed the full extent of the loss at this stage cannot be quantified.

2.19.7. The SRR would act as a barrier to the movement of wildlife. notwithstanding the potential introduction of any green bridges, animex bridges and wildlife tunnels. The new country Park towards the north of the site would have no green bridge over the SRR to increase connectivity between the main area of open space and it is not clear why this has not been proposed to try and reduce the impact of the link road on the fragmentation of the habitats and connect up areas of open space.

d. Conserve and enhance existing natural features of visual, historic or nature conservation value (such as established trees and hedgerows) wherever possible; and use appropriate landscaping to help create a well-designed place and integrate the development into its surroundings;

2.19.8. The Applicant's Arboricultural Impact Assessment (AIA) (CD7.21) advises that to facilitate the development it is proposed to remove a number of trees. In terms of the quality of trees to be removed, there would be the 14 category A, 20 category B and 18 category C removals.

2.19.9. Within the site is a tree subject to Tree Preservation Orders (TPO), being TPO TP-98-2 which affords protection to four Copper Beech trees and one English Oak (T53-T57) situated adjacent to Church Street to the south of Bapchild. One of the four protected Copper Beech trees (TPO TP-98-2 being tree T56 see CD7.21 PDF page 85) would be removed to facilitate part of the sustainable movement corridor associated with the SRR connection to Church Street. This is shown at page 15 (figure 4) of the AIA (CD7.21). The sustainable movement corridor could be adjusted to avoid unnecessary tree loss,

2.19.10. In addition, there would be the removal of 18 groups of trees, 9 hedges and 12 parcels of commercial orchard. The Southern Application would also involve the partial removal of 20 groups of trees, 14 hedgerows and 3 woodlands.

2.19.11. Trees to be removed do make an important contribution to the amenity landscape, and biodiversity value of the site and the surrounding area. The consultation response from the Council's Tree Officer (CD10.73) from July 2024 states inter alia:

'taking all matters into consideration, from an arboricultural perspective, I am not able to support these applications and would recommend they are refused, and I would urge the applicant to review the current outline schemes to address the impacts they currently have on the higher grade trees and ancient woodland.'

2.19.12. The scheme has not been adjusted with a view to retaining more trees, while it is possible to retain the grade A and protected tree (T56) this is not proposed. Depending on the final design of the SRR a greater proportion of ancient woodland than is estimated may need to be lost.

e. Use green infrastructure provided as part of the scheme and nature-based solutions to secure multiple benefits: such as for biodiversity; surface water and pollution management (including maintaining flow rates and water quality); climate change mitigation and adaptation, and recreation;

2.19.13. The indicative proposals include green infrastructure and subject to conditions and planning obligations being secured there is no reason the proposal could not accord with NPPF Policy N2 (e).

f. Minimise impacts on biodiversity and include features for species which support priority or threatened species such as swifts, bats and hedgehogs. Development proposals should incorporate integrated nest boxes (commonly known as swift bricks) into their construction unless there are compelling technical reasons which prevent their use, or would make them ineffective; and

g. Make sure that green infrastructure and other features to support nature are located and designed to minimise risk of future failure, and that appropriate measures are in place for any necessary long-term management.

2.19.14. Proposals have been put forward to minimise impacts to biodiversity (such as provision of offsite areas for sky lark mitigation and overwintering curlew) and the long term stewardship and management of green infrastructure, subject to conditions and planning obligations being secured there is no reason the proposal could not accord with NPPF Policy N2 (f) and (g).

2.19.15. Policy 'N3: Trees in new development' seeks to ensure trees are incorporated into proposals, and subject to conditions being imposed on any consent to secure tree planting and maintenance the proposal could comply with Policy N3.

2.19.16. Policy 'N4: Protected Landscapes' is relevant in that planning permission is sought for the creation of a new junction to the M2 motorway (the M2), within the Kent Downs National Landscape. There would be a fly over above the M2 and slip roads (north and south of the M2) created to facilitate traffic movements onto and off the M2. A plan of the junction is shown at page 130 of the M2J5a Concept Design Report, Charles & Associates (April 2025) submitted by the Applicant (CD34.11.3 PDF page 130).

2.19.17. There would be a considerable number of vehicles using the new junction. The land on which the junction is proposed, south of the M2, is part of the Kent Downs National Landscape (KDNL), as such there would be direct impacts to the KDNL. Part 1 of Policy N4 states:

1. Development proposals within Protected Landscapes should be limited in scale and extent and sensitively located and designed to avoid harm to the statutory purposes and special qualities of the Protected Landscape. Substantial weight should be placed on the importance of conserving and enhancing the natural beauty of these areas, and to conserving and enhancing wildlife and cultural heritage in National Parks and the Broads.

2.19.18. The extent of development in the KDNL is not limited and would cause harm to the special qualities of the KDNL.

2.19.19. Part 2 of Policy N4 states:

2. Proposals for major development within protected landscapes should only be supported in exceptional circumstances where it can be demonstrated that the development is in the public interest.

2.19.20. The policy echoes that of the 2024 version of the NPPF, major development is proposed within the KDNL, and this was agreed in the verbal evidence by Mr Bashforth. As is reflected in the POE of Mr Duigan (CD 38.6.2 para 5.150) advice from the KDNL Unit and Natural England is that major development is proposed in the KDNL. The Council's analysis is set out in CD38.6.3 Appendix 3 page 47 to 49, which concludes major development is proposed in the KDNL.

2.19.21. Part 2 of Policy N4 also states that

To inform a decision about whether exceptional circumstances exist, consideration of such proposals should include an assessment of:

a. The need for the development, including in terms of any national considerations such as maintaining a sufficient supply of minerals, and the impact of permitting it, or refusing it, upon the local economy;

b. The cost of, and scope for, developing outside the Protected Landscape, or meeting the need for the development in some other way; and

c. Any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which it could be moderated.

2.19.22. The proposals have been assessed against these criteria and that analysis is contained in Appendix 3 (page 47 to 59) of CD38.6.3. Consideration of whether the benefits of the scheme constitute exceptional circumstances is considered at Section 19.64 of CD38.6.2.

2.19.23. The conclusion as to whether exceptional circumstances exist and whether the proposal is in the public interest is set out from paragraphs 19.69 to 19.90 of CD38.6.2. Exceptional circumstances are not considered to exist and nor would the proposal be in the public interest.

2.19.24. Part 3 of Policy E4 was not reflected in the 2024 version of the NPPF and states:

3. Where, exceptionally, proposals for major development are approved within protected landscapes, steps should be taken to mitigate potential adverse impacts on their special qualities and statutory purposes⁶⁰, including on features such as tranquillity and dark skies.

2.19.25. Footnote 60 states "Where significant harm cannot be mitigated, it may be appropriate to consider whether suitable compensation would be acceptable".

- 2.19.26. Set out in CD18.5 is guidance for relevant authorities on seeking to further the purposes of Protected Landscapes. Attached at Appendix 8 of CD38.6.3 is a Kent Downs National Landscape compensatory enhancement supplementary paper. The supplementary paper supports the Council's case on compensatory enhancement as set out in Chapter 6 of the Proof of Evidence of K Miller of the Kent Downs National Landscape Unit, on behalf of Swale Borough Council (CD38.2.2).
- 2.19.27. The Council and Applicant identify adverse environmental effects on the KDNL in relation to its special qualities including landscape, visual amenity and tranquillity. In view of that harm (which is agreed, although its extent is disputed), it cannot be said that in granting planning permission the decision-maker would be furthering the purposes of the KDNL.
- 2.19.28. Appendix 8 of CD38.6.3 also explains that the Applicant has proposed £250,000 as necessary to fund capital projects to assist in managing the impacts of the increased population on the KDNL, through measures such as the provision of small car parks and information boards etc and address the duty to further the purpose.
- 2.19.29. However, as set out in the main proof of K Miller (CD38.2.2) at paragraphs 6.7.2 to 6.7.5, the principal way of dealing with impacts to the KDNL from the significantly increased population is through a dedicated staff resource, such as ranger service, and other measures. The Council considers that it is necessary for the impact of the development to the KDNL to be mitigated, and this could be done through the funding of and delivery of measures set out in Appendix 8 of CD38.6.3, equating to £ 3,439,961.
- 2.19.30. The significant harm cannot be mitigated, and it is the Council's view that if the Inspector and Secretary of State is of the view that exceptional circumstances exist to justify major development in the KDNL and the development is in the public interest, it is entirely appropriate that full amount of suitable compensation be secured.
- 2.19.31. The Applicant did not agree to the majority of the compensation and as such the compensation is subject to a 'blue pencil' clause in the S106 agreement. Given that the significant harm cannot be mitigated, this adds weight to the need for suitable compensation.
- 2.19.32. Part 4 of Policy E4 states:
- 4. Development proposals within the setting of protected landscapes should be sensitively located and designed to avoid or minimise adverse impacts on the Protected Landscape.*
- 2.19.33. Not only does part of the application site fall within the boundary of the Kent Downs NL (accommodating the proposed motorway junction), areas of the site (north of the M2) fall within the setting of the Kent Downs NL. With reference to Ms Miller's evidence (see CD38.2.2 para 5.3.4), she considers that:
- 'the site closest to the boundary and with greatest visibility from the KDNL are where setting issues will be more keenly felt, but consider it extends further north than Doves Croft, to incorporate the undulating landform north of this. In addition, I consider both the Highsted dry valley landform and area designated as Area of High Landscape Value (AHLV) also form part of the setting, due to the continuation of the dry valley to and from the KDNL and the high quality and shared landscape characteristics of the valley and surrounding AHLV.'*
- 2.19.34. Development is proposed within this area, including employment space south of the Kent Science Park, housing west of the Science Park, and a sports hub adjacent to the northern side of the M2 motorway.

- 2.19.35. The impact to setting is discussed in CD38.6.2 from paragraph 5.168 to 5.178, in essence the proposed development within the setting of the KDNL is not sensitively located and would not successfully avoid or minimise adverse impacts on the designated area.
- 2.19.36. Policy 'N6: Areas of particular importance for biodiversity' This policy relates to protected sites including sites of international, national and local importance including ancient woodland.
- 2.19.37. Given the scale of the proposed development in combination with other projects, there is potential for a significant effect in relation to the Medway Estuary and Marshes, The Swale SPAs, SSSI and Ramsar sites.
- 2.19.38. This is from recreational pressure (the Applicant has agreed to fund mitigation, which is secured in the finalised S106 legal agreement, and as such no objection would be raised), impacts due to air quality impacts have been ruled out following submission of additional information, no objection is raised in terms of impacts to the Medway Estuary and Marshes, The Swale SPAs, SSSI and Ramsar sites.
- 2.19.39. Part 2 of Policy N6 states:
- 2. Irrespective of a site's status in nature conservation terms, development proposals which would entail the loss or deterioration of irreplaceable habitats (such as ancient woodlands and ancient and veteran trees) should be refused, unless there are wholly exceptional reasons⁶² and a suitable compensation strategy exists.*
- 2.19.40. Footnote 62 states "*For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitats*".
- 2.19.41. There are areas of ancient woodland within (Bex Wood and Highsted Wood) and adjoining the site (Cromers Wood) that would be impacted by the development (see CD9.2.35 para 1.3 and 1.4). These are irreplaceable habitats, with significant ecological and biodiversity benefits, the loss of which cannot be compensated for within reasonable timescales. Given the housing proposed in close proximity to the woodland areas, recreational pressure would increase in these woods.
- 2.19.42. Nearly 4% of the ancient woodland at Highsted Wood (ancient woodland) would be lost to the development (0.21ha). The proposed route of the SRR, would cut through the northern part of the woodland. Highsted Wood is listed as Ancient & Semi-Natural Woodland (ASNW) on the Ancient Woodland Inventory (AWI).
- 2.19.43. With the SRR proposed to run between a former quarry (now Highsted Quarries LWS) and Highsted Wood, there would be a reduction in the area of other supporting semi-natural habitats. The proposed loss of woodland would result in some loss of habitat for wildlife species, along with potential for indirect effects such as noise and light disturbance.
- 2.19.44. There is at present a relationship between the wildlife site within the former chalk pit north of Highsted Wood and the wood itself. The evidence of both Ms Forster and Mr Baxter is that they are connected by semi-natural woodland, albeit established in the last 20 years. Reference is made to Ms Forsters evidence (CD38.4.2 para 9.19) where it highlights the relationship between the habitat areas, and that the SRR would separate these.

2.19.45. Impacts to Ancient Woodland are discussed in detail in CD38.6.2 paragraphs 7.17 to 7.44 and whether wholly exceptional circumstances exist for the loss or irreplaceable habitat and discuss at paragraph 19.91 to 19.97 of CD38.6.2.

2.19.46. In summary wholly exceptional circumstances do not exist to justify the loss of ancient woodland contrary to NPPF Policy N6; nor would the need for, and benefits of the development clearly outweigh the adverse impacts.

2.20. Chapter 20. Conserving and enhancing the historic environment.

2.20.1. Policy 'HE4: Securing the conservation of heritage assets' requires inter alia that development avoid harm to the significance of heritage assets and instead conserve their significance. If harm to the significance of heritage assets cannot be minimised or avoided, there should be a clear and convincing justification in accordance with the policies in Chapter 20.

2.20.2. The site is near to many heritage assets and surveys indicate it also potentially contains archaeological remains. The development would result in harm to multiple designated heritage assets, with the harm to the significance of listed buildings arising from development in their setting.

2.20.3. With reference to Mr Sones's evidence (CD38.3.2), at Part 5 (pages 40 to 68) is an Assessment of Heritage Assets Affected by the Southern Application including significance and the impacts of the Proposed Development on the Setting and Significance of the Asset along with potential mitigation, including where and why she considers impacts set out in the evidence of the Applicant's Heritage witness (CD37.4.2) have been underestimated.

2.20.4. Due to the extent and scale of proposed new development, it would be conspicuous in the setting of the listed buildings, introduce built form and associated hard landscaping, vehicular movement, activity, noise, lighting effects and light spill, represent a fundamental change in landscape character and land use with an urbanising and permanent impact.

2.20.5. The significance of non-designated heritage assets would also be harmed through development in their setting.

2.20.6. Policy 'HE6: Proposals affecting designated heritage assets' states that when considering the potential effect of a development proposal on a designated heritage asset, substantial weight should be given to the asset's conservation. Where a development proposal would harm the significance of a designated heritage asset the effect on the asset and its significance should be weighed against any public benefits resulting from the proposal. The Council's approach to this has been set out previously and generally need not be repeated. However, it is relevant to summarise that the proposed development would result in harm to 1 x Grade I building (Church of St Nicholas, agreed at a medium level of less than substantial harm, which can now be classified simply as harm given the changing terminology), 1 x Grade II* building (Bexon Court, harm not agreed), 21 Grade II buildings and 16 NDHA. The development would not conserve or enhance the significance of these buildings.

2.20.7. In relation to NPPF Policy HE7, in terms of harm to non-designated heritage assets, where a development proposal would cause harm to a non-designated heritage asset, this should be weighed against the benefits of the proposal and a balanced judgement made, having regard to the scale of any harm or loss and the significance of the non-designated

heritage asset. Again, this has been commented on previously and the case made is considered to remain applicable.

- 2.20.8. Policy 'HE9: Conservation areas' requires that development proposals within or affecting the significance of conservation areas should:
- a. Retain and restore buildings and other features which make a positive contribution to the character or appearance of a conservation area wherever possible; and*
 - b. Consider the area's special architectural or historic interest (as identified as part of the designation of the conservation area) in the design of development.*
- 2.20.9. The evidence of Ms Sones is that the development would cause impacts to Rodmersham Church Street Conservation Area (middle to high less than substantial harm), as well as to the Rodmersham Green and the Tunstall Conservation Area (both very low level of less than substantial harm).
- 2.20.10. Since the Inquiry was closed the Bexon Conservation Area has been adopted. Given the proximity of highway infrastructure proposed south of the M2, there would be harmful impacts to the setting of the Bexon Conservation Area. The proposal would not align with NPPF Policy HE9.
- 2.20.11. Portions of the application site are potentially of archaeological interest, and as such Policy 'HE10: Archaeological assets' is relevant. The Applicant undertook intrusive surveys to investigate the potential, the evidence of the KCC Archaeologist, Mr S Mason (CD39.2.2 para 9.2 to 9.4) is that there remains widespread archaeological potential on site that will need to be addressed through a substantial programme of further evaluation to be undertaken in advance of Tier 2 applications and subsequent mitigation that may include preservation measures. Subject to conditions, the KCC Archaeologist advised that no objection is raised.

3. Conclusion

- 3.1.1. Whilst there are some aspects of the various Chapters of the NPPF which the proposal would be consistent with when taken in isolation, there is conflict with the Chapters in other respects. The presumption in favour of sustainable development set out at Policy S3 is not considered to be engaged because the benefits of approving the development would be substantially outweighed by adverse effects, when assessed against the national decision-making policies in the Framework. As the proposals are not compliant with any of the categories in policy S5(1) of the NPPF, policy S5(4) sets out that development should only be approved in exceptional circumstances where the benefits of the proposal would substantially outweigh the adverse effects.
- 3.1.2. In particular the harm to heritage assets, loss of ancient woodland (at Highsted Wood), and major development (highway infrastructure) proposed in the Kent Downs National Landscape is not considered to be substantially outweighed by the benefits of the proposal. The planning balance is discussed in full at section 19 of the POE of Mr Duigan CD38.6.2.