



Community Objections submitted on behalf of Bapchild, Bredgar, Milstead and Rodmersham Parish Councils

21/503914/EIOUT: Outline application with all matters reserved for the phased development of up to 578.65 hectares of land comprising: up to 8,000 residential dwellings including sheltered/extra care accommodation - up to 170,000 sq. m/34 hectares of commercial, business and service/employment floorspace. Land South And East Of Sittingbourne Kent

21/503906/EIOUT: Outline application with all matters reserved for the phased development of up to 95.51 hectares of land comprising: up to 1,250 residential dwellings including sheltered/extra care accommodation - up to 2,200 sq.m/1 hectare of commercial floorspace, mixed use local centre and neighbourhood facilities including commercial, business and employment floorspace. Land To the West Of Teynham London Road Teynham Kent

November 2021

Contents

1. Executive Summary	3
2. Introduction	6
3. Conflict with the plan-led system and the Local Plan	6
4. Housing delivery in Swale	9
5. Landscape Impacts	12
6. Heritage Impacts	19
7. Loss of best and most versatile agricultural land	23
8. Highway matters	24
9. Infrastructure impacts	27
10. Biodiversity	28
11. Stones Farm development	29
12. Land contamination	30
13. Other issues	32
14. Conclusion and the planning balance	33

Appendix 1: '50 Years of Shell Research at Sittingbourne'

Appendix 2: Extracts from 'A History of Royal Dutch Shell'

Appendix 3: Copy of the Promotion Agreement for the site.

Appendix 4: Land Registry Titles K764737 and K766130

Prepared by Richard Stewart Bsc (Hons) MA MRTPI – November 2021

SUTTON COLDFIELD | CASTLE DONINGTON

Cerda Planning Limited Registered in England No 06519953

1. Executive Summary

1.1 Two major developments are currently proposed within Swale known as Highsted Park North and South. The Northern site is also known as Land to the West of Teynham, with the southern site known as Land to the South and East of Sittingbourne.

1.2 Our clients wish to make known their strong objections to the above planning application(s) which propose significant development in Swale of an era defining scale. Our principal areas of concern in relation to the proposed developments relate to the following:

- Conflict with the plan-led system and the Local Plan;
- Housing delivery in Swale;
- Landscape impacts (incorporating the Kent Downs AONB, Areas of High Landscape Value, Important Countryside Gaps and Rural Lanes)
- Impact on heritage assets;
- Loss of best and most versatile agricultural land;
- Impacts on infrastructure;
- Highway matters; and
- Biodiversity considerations;

1.3 The Development Plan is the starting point for decision making and development proposals which conflict with it should be refused unless other material considerations indicate otherwise. The position is that whilst housing supply has fallen below that required for the Council to demonstrate a 5 year housing supply, the 0.4 year housing shortfall is not significant, and the Council are actively working towards making up this shortfall and achieving a five year supply.

- 1.4 The proposed sites are located outside the defined built-up area boundaries of existing settlements of Swale, with no special circumstances that would presently warrant support in principle for the development of the site and the resultant encroachment of built development in to the countryside, contrary to the plan led system and the sustainable spatial strategy of the Local Plan. This conflict with the plan led system indicates an unsustainable development from the outset. In considering the three dimensions of sustainable development and whether there is a mutual balance reached under the proposals, it is evident that there are social and economic benefits of the scheme through the provision of new housing, infrastructure and employment development. However, these benefits would be replicated on other sites coming forward under the plan-led approach and thus add little weight to the overall planning balance.
- 1.5 Significant harm arises in the environmental dimension. The proposal development is considered to have a detrimental impact on landscapes of acknowledged importance including the Kent Downs AONB, areas of High Landscape Value, Important Countryside Gaps and Rural Lanes by virtue of introducing new development and supporting highway infrastructure on prominent sites which individually and combined form an important component of the historic character and appearance of this area.
- 1.6 Harm to heritage assets is also of grave concern, the scale of the development and its individual and cumulative impacts on the historic environment would result in irreversible negative impacts on the significance of a number of conservation areas, listed buildings and archaeology (which has yet to be adequately explored).
- 1.7 There remain many unanswered questions in respect of the potential for historic land uses within the site to affect the suitability of land for development. The use of part of what is now Kent Science Park and its surrounding agricultural land by Shell as part of their research in to the use of chemicals could have a significant impact on the suitability of that land for any form of development. The supporting baseline studies do not appropriately grapple with this issue and it is considered necessary for these matters to be addressed through suitable investigations prior to the determination of these applications.

- 1.8 The transportation issues, their need and resultant impacts on the landscape and historic environment weight significantly against the development. The need for the new motorway junction is unfounded and certainly not in the public interest. The lack of adequate supporting information to justify or consider the wider transport impact of the development also weigh significantly against the proposal.
- 1.9 The benefits of the development are not considered to be of such magnitude so as to outweigh the harm identified, with the environmental harm instead considerably outweighing the benefits of the scheme. These proposals are unplanned and contrary to the strategy of the Local Plan to provide the sustainable delivery of housing across the Borough advocated by the plan led system – in particular Local Plan Policies ST1 – ST5. With the site not featuring in the plan and having been discounted by the Council in its preparation of the Local Plan Review is further indication that the development is not sustainable in principle, and the specific environmental harm which arises from the development confirms this. Consequently, it is not considered there are other material considerations which outweigh strong direction in the NPPF to refuse development which gives rise to such wide-ranging negative impacts on areas and interests that it seeks to preserve and enhance – especially when there are no overriding public benefits to the development.

2. Introduction

- 2.1. This representation has been prepared by Cerda Planning on behalf of our clients Rodmersham, Bapchild, Milstead and Bredgar Parish Councils, in objection to the above mentioned planning applications.
- 2.2. This representation is divided into sections in order to cover our clients main areas of concern.

3. Conflict with the plan-led system and the Local Plan;

- 3.1. This application has been submitted following objections from Swale Borough Council (the Council) to the inclusion of the sites within the emerging Swale Local Plan. Noting that this plan has been the subject of a legal challenge and further consultation is underway on the Local Plan Review.
- 3.2. These applications are an attempt to circumvent the local plan process by forcing the Council to consider an application of such a scale that it would effectively shape the strategy for development within the Borough for years to come – the plan and strategy for the area being led by a speculative planning application rather than the plan leading the strategy for development based on the true and appropriately considered needs of the area.
- 3.3. Whilst it is accepted that the Local Plan Review cannot be given significant weight in the decision-taking arena the spatial strategy for development within the Borough as set out in the adopted local plan can be given such weight and this strategy is what needs to guide new development proposals within the Borough. The Local Plan identifies sufficient housing sites in order to meet the long-term needs of the area and its residents, albeit there has been a recent slowdown in delivery.
- 3.4. The Local Plan (Bearing Fruits 2031) was adopted in July 2017 – it is only 4 years old and sets out sufficient sites to meet the needs of the Borough including the infrastructure required to support that development. Indeed, the Secretary of State approved the necessary improvements to Junction 5 of the M2 in June this year with work having commenced this month (October 2021) which will facilitate development to the north and west of Sittingbourne and enable the Council to boost housing supply in the Borough.

- 3.5. The proposed development is not included within the adopted Swale Local Plan, nor the Draft Local Plan. Neither plan supports the significant scale of development in the location proposed, nor does it identify the suitability or need for a new motorway junction on the M2. The scale and infrastructure requirements of the proposed development would undermine the plan led mechanism to delivering the housing that the Council needs.
- 3.6. The proposals overall are considered to represent substantial harm by directly conflicting with the strategy of the Development Plan. The Core Principles of the NPPF include a plan-led approach and this reflects the statute. The strategic policies of the Local Plan (Policies ST1 – ST4) reflect these core principles down to a local level. To approve development which is contrary to the Plan significantly undermines the confidence in the planning system and effectively makes the predictability of application proposals very uncertain on each and every case. This is clearly not the intention of the NPPF, nor could it override the legal duty in section 38(6) of the 2004 Act. In this sense, the harm to the plan-led system is very real and as such the proposals do not represent the type of sustainable development as is envisaged by the Local Plan and the NPPF.
- 3.7. The NPPF is a material consideration which does not have the same 'status' as the Development Plan as outlined within case law. In any case, whilst setting out the presumption in favour of sustainable development, the NPPF core principles make it clear that decisions should be genuinely plan-led, with such plans providing a predictable and efficient basis for ascertaining the outcome of development proposals. With this in mind, the Development Plan acts as the practitioners' guide for what constitutes sustainable development within the District, particularly in terms of whether the development concerned accords with its strategic 'direction'.
- 3.8. A grant of permission without clear and convincing material considerations of such importance so as to outweigh the very significant harms identified as a consequence of the development would undermine the very basis of the planning system in England, enshrined in statute.

3.9. It is accepted that for development to be considered 'premature' the Swale Local Plan Review would need to be at a more advanced stage than it currently is as set out in the NPPF (49). However, the principle concerns still ring true and are of grave concern – the developments proposed are so substantial and its impact would be so significant that the granting of permission would in effect predetermine the whole strategy for development in Swale. Approval of the developments would impose development which would in effect shape the strategy for the location and scale of development in Swale for many many years to come, which is contrary to the strategy set out in the adopted Local Plan and fails to appropriately consider the wider needs of the Borough that would be realised from a plan-led approach to development allocated development would bring.

4. Housing delivery in Swale

- 4.1. The preface of the planning argument in support of the proposed development is the fact that the Council are unable to demonstrate a deliverable housing supply in excess of 5 years. That is a fact as accepted by the Council and is not in dispute. This engages what is known as the 'tilted balance' where a presumption in favour of development is applied.
- 4.2. Where the presumption in favour is engaged this means the following as outlined at NPPF (11):

For decision-taking this means:

- (c) approving development proposals that accord with an up-to-date development plan without delay; or*
- (d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless; (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

- 4.3. The NPPF is clear that where relevant policies are out-of-date permission should be granted unless specific policies in the NPPF indicate development should be refused and where the adverse impacts of the development would significantly and demonstrably outweigh the benefits. The specific policies in the NPPF detailed at footnote 7 which provide clear reasons for refusing development in this case relate to the protection of Areas of Outstanding Natural Beauty and heritage assets – the protection and enhancement of these nationally important assets attracts great weight in the planning balance.

- 4.4. Turning back to the issue of housing supply, what is material is the fact that the Councils housing land supply sits only marginally below 5 years at 4.6 years, so an equivalent of 310 dwellings. To put this into context with the combined development proposals of 9,250 dwellings proposed in the applications for Highsted Park, only 3% of the homes proposed would be required to account for the identified shortfall.
- 4.5. In 2020 the Council fell below the 95% Housing Delivery Test, such that the Council was required to prepare an Action Plan in order to identify the reasons why housing delivery in the Borough is not meeting its need (as a proportion of its agreed annual target of delivering 776 dwellings). The Action Plan sets out actions it will take in order to improve housing delivery. Overall, the Local Plan is considered to have allocated sufficient sites to meet its identified needs, even over allocating surplus sites to ensure flexibility in delivery though the plan period. The infrastructure limitations in the Borough are acknowledged to have resulted in a slowdown in the delivery of homes in particular in relation to the required improvements on the A249 and at junction 5 of the M2. The recent commencement of works on the improvements to junction 5 will help to facilitate an invigorated boost in housing delivery.
- 4.6. In considering the weight that should be given to the ability of the development to reduce the marginal shortfall in housing land supply identified is a matter of planning judgement. It is not the case that once delivery falls below 5 years that 'anything goes'. The weight that must be given to increasing the supply of housing varies from case to case. The matters that help to determine the weight to be given to additional housing delivery include the extent of the shortfall, how long the deficit is likely to persist, what steps the authority is taking to reduce the deficit, and how much of the deficit the development would be met by the development proposal.
- 4.7. There is an identified shortfall in Swale, but it is a minor shortfall of 0.4 years which is not considered to be so significant that decisions on the location and scale of development should be taken away from the Council. A strategy is in place though the Housing Delivery Test Action Plan for Swale to meet this minor shortfall in the relative short-term. To argue that development of a scale that in itself that would provide nearly 12 years of housing supply is necessary to make-up a minor shortfall in housing delivery is excessive. The issues identified with the current delivery of homes in Swale are not critical and in any event development proposed through the Highsted Park developments would be unlikely to actually deliver any homes in the short-term.

4.8. This delay in delivering homes from the site is inevitable due to the scale of the developments proposed, the extent of the necessary on and off-site infrastructure requirements and the timescales involved at planning stage (taking account of the need for the applications themselves to be determined, S106 negotiations and completions to take place, allow a period for Judicial Review challenges, site sale to developers, Reserved Matters submissions, infrastructure works, site commencements and completions). It is considered that none of the homes proposed would deliver in the next 5 years – such that the approval of these applications would not resolve the housing land supply issues upon which the applications are justified. The developments would therefore do nothing to meet the minor housing supply shortfall identified and as such the developments should be given limited weight in terms of meeting the identified housing shortfall in Swale in the short-term.

5. Landscape Impacts

- 5.1. The importance of planning decisions in protecting the country's most important natural assets is a matter of significant importance, and needs to be attributed substantial weight in planning decisions.
- 5.2. The site has significant landscape value, and a number of important landscape designations at a national and local level which need to be appropriately considered in assessing the development proposals and their impact on the natural environment. These designations in particular relate to the Kent Downs AONB, Areas of High Landscape Value, Important Local Countryside Gaps and Rural Lanes.

AONB

- 5.3. A portion of the site where a large new motorway junction is proposed to connect to the M2 is located within the Kent Downs Area of Outstanding Natural Beauty (AONB), and the whole of the southern section of the proposed development is located within the setting of the AONB. The NPPF could not be more explicit about the protection given to AONB's and consideration of impacts on these areas as outlined paragraphs 176 -177:

Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas

When considering applications for development within National Parks, the Broads and Areas of Outstanding Natural Beauty, permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

- (a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;*
- (b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and*

(c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

- 5.4. At a local level policy DM24 of the Local Plan echoes the requirements of the NPPF, including a requirement for development to further the delivery of the AONB management plan, consideration of cumulative effects and that new development is appropriate to the economic, social and environmental well-being of the area.
- 5.5. These tests for development within (and to a lesser degree affecting the setting of) AONB's rightly sets a high bar with great weight given to the areas protection and development only being considered appropriate in exceptional circumstances. Noting that the 'tilted balance' application in the NPPF does not apply to development within AONB's where there are clear reasons for refusing development.
- 5.6. The harm to landscape and scenic beauty of the AONB is clear. The formation a new motorway junction to the M2 (and it's associated road infrastructure) would have significant and wide-ranging impacts on the AONB. The level of harm attributed to the development within the LVIA is worryingly underestimated for both landscape and visual receptors in the AONB – this is a very sensitive and high value landscape that has a high susceptibility to change. This has consequently led to an under estimation of the significance of effects, which also brings into question the legitimacy of the landscape impacts outlined in relation to other landscapes in the assessments.
- 5.7. This is a view shared by the Kent Downs AONB Unit, who also usefully in their consultation response outline the policies within the Kent Downs AONB Management Plan with which the development directly conflicts further highlighting the clear conflict with Local Plan Policy DM24.
- 5.8. It must be accepted that the development proposed within the AONB is major development within the AONB for the purposes of the NPPF, and so it is necessary to examine whether any exceptional circumstances exist in the public interest to approve development which otherwise should be refused. Is the development necessary in the public interest in order to justify harm to the AONB and what constitutes an exceptional circumstance? It is our professional view that the development within the AONB is not necessary or unavoidable. The new motorway junction is proposed within the AONB for no other reason than to support the significant and speculative developments proposed. There are no overriding public interests or benefits that ensue from this development.
- 5.9. There is not an overriding highway safety issue that needs to be addressed by a new junction, the new junction is not required in order to deliver the housing that is needed

in Swale or deliver the commitments in the Local Plan. Other infrastructure improvements are underway (including improvements to the existing junction 5 and works to the A429) which would secure the delivery of the necessary quantum of homes and economic development for the Borough. When considering whether the developments are in the public interest it is important to note that the Kent Downs AONB is a landscape with a distinctive character and natural beauty so outstanding that it is in the nation's interest to safeguard it and its setting from inappropriate development. As such, for the development to be considered to be in the public interest, the potential benefits must outweigh the national significance of conserving and enhancing the natural beauty of the AONB.

- 5.10. The significant infrastructure works within the AONB required to support the development are not considered necessary and alternatives to development within the AONB are available through the allocations within the Local Plan and other less sensitive sites within the Borough – these alternatives have not been adequately explored within the application. These matters combined mean that the exceptional circumstances required in order to justify harm to the AONB have not been met and as such the development is not justified in respect of direct and significant harm to the landscape and scenic beauty of the AONB.
- 5.11. In addition to the direct harm, the wider proposals would have irreversible harm to the setting of the AONB and the Council is required to have regard to the purpose of AONB's being designated i.e. to conserve and enhance the natural beauty of the area. The significant scale of the development and the inevitable change in character of this area to the south east of Sittingbourne would have a demonstrable detrimental impact on the setting of the AONB.
- 5.12. The northern side of the M2 is important to the setting of the AONB. The AONB boundary (the M2) is a man made boundary; the topography to the north and scenic beauty are of comparable importance to the land to the south. Land to the north comprises the Highsted dry chalk valley, characterised by its dip and scarp slopes, ancient woodlands including Cromers Wood and Highsted Wood, arable crops and orchards. The dip slope of the Down Kent downs features prominently in the wider landscape with far reaching views over not just Sittingbourne, the Isle of Sheppey but also Whitstable, the Isle of Grain and over to Southend and the south Essex coastline and vice versa. Therefore any development in this area would significantly detract from the beauty and landscape character of the area. The landscape is rural with areas of wooded shaws, narrow country lanes and native hedgerows. The setting of the AONB

is fundamental to the AONB and to develop within the setting would cause significant harm to the AONB itself.

- 5.13. Increased lighting within the area both as a result of the scale of the development outside the AONB but within its setting and also as a consequence of the proposed new motorway junction within the AONB would have direct and significant adverse impacts on the dark night skies and overall tranquillity of the Kent Downs AONB. This consequence of the development is clearly in direct conflict with Policy DM24 of the Swale Local Plan, the NPPF and Policy SD7 of the Kent Down Management Plan which is repeated below:

'To retain and improve tranquillity, including the experience of dark skies at night, careful design and the use of new technologies should be used. New developments and highways infrastructure which negatively impact on the local tranquillity of the Kent Downs AONB will be opposed unless they can be satisfactorily mitigated.'

- 5.14. In this context it is important to note that the village of Bredgar (within the AONB) currently only has one street light column in the Parish, which is located in the centre of the village and any development within this area (including to the north of the M2) will undoubtedly impact upon dark night skies and the tranquillity of the area.
- 5.15. The proposal would result in significant harm to the AONB as a result of the introduction of substantial new highways infrastructure within the AONB itself and major scale development within its immediate setting, both of which would fail to meet the key planning policy tests of conserving and enhancing the landscape and scenic beauty of the AONB upon which great weight is placed.

Areas of High Landscape Value

- 5.16. A large swathe of the application site is identified as an Area of High Landscape Value (AHLV), this area extends northwards from the AONB boundary (the M2 motorway) following the Highsted Valley to the south eastern edge of Sittingbourne known as the Kent Downs, Rodmersham, Milstead and Highsted Dry Valley which is inextricably linked to the AONB. The character of this area is unique, with an open and undeveloped character linking it to the AONB where undeveloped ridges give a real sense of a scenic and tranquil landscape, notwithstanding the close proximity of the area to the edge of Sittingbourne and the Kent Science Park.
- 5.17. This area is considered to constitute a valued landscape for the purposes of the NPPF at paragraph 174:

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

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

5.18. New development is required to and enhance the natural and local environment by protecting and enhancing the area. The scale of development proposed would for all intents and purposes wipe out this area of High Landscape Value as the scale of the development proposed and its location would so significantly diminish the value of the area so as to do the complete opposite of protecting and enhancing the area as required by the NPPF and policy DM24 of the Local Plan, the social and economic benefits of this unplanned development do not significantly and demonstrably outweigh the identified substantial harm to the landscape.

Important Local Countryside Gaps and Rural Lanes

5.19. In acknowledging the need to prevent the coalescence and erosion of the character of the settlements close to Sittingbourne an Important Countryside Gap was defined in the 2008 Local Plan and carried through to the current Local Plan. One of the identified gaps is the area between Sittingbourne and the satellite villages of Bapchild, Rodmersham Green, Tunstall, Borden, Chestnut Street, Bobbing and Iwade. The allocating Local Plan Policy (DM25) identifies that unless allocated for development planning permission will not be granted for development that would undermine one or more of the purposes of the gaps.

5.20. Clearly the proposed development would conflict to a significant degree with the purposes of this policy – completely changing the character of this part of the Borough, extending Bapchild, Rodmersham, Highsted and Sittingbourne (off Highsted Road) into this area resulting in a substantial change to the character of this Important Countryside Gap contrary to each and every reason for protecting the character of the area through the policy.

5.21. To the south and east of Sittingbourne the local road network is comprised primarily of Rural Lanes, which contribute significantly to the character of the area, its amenity and form part of the character of the landscape – these lanes are a key element of the character of these small rural villages of Swale. Policy DM26 identifies these lanes and states that permission will not be granted for development that would either physically, or as a result of traffic levels, significantly harm their character.

5.22. The proposed development would result in substantial and irreversible alterations to these important lanes both within the application site though the likely requirement for substantial upgrading, widening and realignment alongside significant impacts on those lanes outside of the site which would see a likely exponential increase in traffic. The submission includes reference to these lanes, considering the impact of the development to be slight adverse to negligible, commenting that the rural context of the lanes would change due to the proposal but as the alignment would be retained. This comment in the submission misses the whole premise of the policy – it is not simply the alignment of the roads but their qualities that need to be protected though the control of development which would harm their landscape, amenity, biodiversity and historic importance.

Land management, cumulative effects and conclusion on landscape matters

5.23. It is certainly noticeable that over the last few years the landscape in the subject area particularly around the Highsted dry chalk valley and Rodmersham has suffered from poor land management. Fields of orchards have been scrubbed out/removed, hedgerows poorly maintained and unauthorised development has taken place. This decline in character is so noticeable that a landscape review commissioned by Swale Borough Council noted its decline. Most recently the Rodmersham Green Conservation Area Character Appraisal 2021 states:

“For a large part of the 20th Century Rodmersham Green was surrounded by fruit orchards but by the end of 21st Century many of the orchards had been grubbed out and turned over to arable farming”

5.24. Poor management should not demean and devalue these landscapes so as to allow development. To allow these developments would carve up and compartmentalise the natural landscape, impact local topography and geology and harm the flora, fauna and wildlife of the area. Full details of the development are not available at this point in time and therefore it is impossible at this stage to fully assess the impacts of the developments. It is also important to point out the importance of the connection between Cromers Woods and Highsted woods with a green hedgerow spine. This connection is not just important visually but also from a flora, fauna and wildlife perspective. The meadow in this area is of major significance containing many rare species including orchids. The chalk pit either side of Cromers Road have become a haven for wildlife. These spaces are extremely important landscape features.

5.25. Since the construction of Eden Village and a number of other developments south of Sittingbourne it is noticeable to nearby rural communities including Rodmersham,

Bredgar and Milstead that these rural areas have come under more pressure, not just from more footfall and traffic but also from damage to the rural landscape. We have witnessed damage to ancient woodlands; arson attacks on fragile wildlife habitats with trees and bushes being burnt, rare orchids trampled on, woodlands littered with rubbish. This urban encroachment has started to change the rural character of the area. The proposals would cause an enormous strain on this rural landscape and cause irreversible damage.

- 5.26. The open parkland character behind the Kent Science Park, around Woodstock harks back to when there was the substantial Woodstock estate, dating back to Edward IV in the 15th century owned by William Robesart of Minster, Sheppey. Contained within the grounds are the remnants of landscaping from the original Woodstock House Estate including one of England's oldest plain trees. The land within the application sites is a typical rural Kent landscape.
- 5.27. The proposed development is considered to have a detrimental impact on landscapes of acknowledged importance including the Kent Downs AONB, areas of High Landscape Value, Important Countryside Gaps and Rural Lanes by virtue of introducing new development and supporting highway infrastructure on prominent sites which individually and combined form important components of the historic landscape character and appearance of this area.

6. Impact on heritage assets;

- 6.1. In considering the impacts of new development on the historic environment, the considerations are not simply confined to planning policy and guidance but also enshrined in statute, which places a statutory duty on the Council under Sections 66 and 72 of the Town and Country Planning Listed Buildings & Conservation Areas Act 1990 (LBCA) to consider the following when considering development proposals:

...shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that [conservation] area.

- 6.2. Similar to the consideration of impacts on AONB's as set out above the NPPF at paragraph 199 places great weight on the conservation of heritage assets:

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

- 6.3. Where any level of harm to nationally important assets are identified new development requires clear and convincing justification.

- 6.4. There is a wealth of heritage interest both above and below ground within and adjacent to the application site. These include conservation areas, listed buildings, ancient trees and known and unknown archaeological interests.

- 6.5. The settings of the Rodmersham Green, Tunstall, Bredgar and Milstead Conservation Areas are all affected to varying degrees by the development with direct harm to the Tonge Conservation Area through the introduction of significant infrastructure (part of the Northern Relief Road) through the area.

- 6.6. Each historic village and hamlet within and adjacent to the proposed development site has its own character, which adds to the overall landscape of interesting and individual villages, in a rural agricultural setting. The proposed development would see the setting of these villages irreversibly damaged – somewhat joined together through what in effect amounts to urban sprawl, which would destroy the character of the area.

- 6.7. The Bredgar and Milstead Conservation Areas are located within the AONB where their settings are characterised by agricultural land, orchards, outlying farmsteads, and a number of dispersed settlements in the wider area. This includes a number of hamlets in the area, which are considered to be of sufficient historic merit and interest to warrant being considered for their own conservation areas, each with ancient origins and a number of listed buildings and non-designated heritage assets. In particular one of these hamlets within the AONB is Bexon which would be subject to significant impact as a result of the proposed new junction on to the M2.
- 6.8. By virtue of the scale of the development proposed the setting of the Rodmersham Green Conservation Area would be significantly altered from its current historic rural agricultural setting. The Conservation Area Character Appraisal (2021) notes how this conservation area links to Tonge through natural and historic watercourses. The watercourses pass Rodmersham House, through Bapchild and into the Tonge stream and Mill pond in the heart of the Tonge Conservation Area. The proposals indicate that development would be in close proximity to the Conservation area and would have to cross over the natural watercourse on the edge of Rodmersham. The full impact on the water course and any consequential impact to the flow of water to Tonge stream and millpond is at this point unknown and unquantifiable. The development proposals indicate a significant proportion of the development would be directly around Rodmersham/Rodmersham Green and Bapchild that would lead to significant harm to this historic rural environment.
- 6.9. The direct harm to the Tonge Conservation Area is as a consequence of the proposed relief road which passes through area. It is also apparent that due to the topography in this area a road in this location would need to include substantial engineering works which would accentuate the negative impact that this infrastructure would have on the character of the conservation area.
- 6.10. The impact of the proposals on the setting of three Grade I listed churches namely St John the Baptist at Bredgar, St Laurence at Bapchild and St Nicholas at Rodmersham requires careful consideration. Each of these churches are located within historic landscapes and are of significant historic value to the area – the setting of each of these assets contributes to their significance and the scale of development proposed would harm the demonstrably harm these assets. We draw your attention to the comments of Historic England in respect of the impact of the development on the Church of St Nicholas in particular

- 6.11. A number of Grade II* listed buildings in the surroundings would see the proposed development extend in to their setting to various degrees. It is considered important to highlight the impact of the development on the setting of Frognall Farmhouse located to the east of the Tonge Conservation Area. The significance of this building is again partly but importantly derived from its setting within its own working estate and rural setting. The significant scale of development which would surround the farmhouse and result in the loss of almost the entirety of its setting which is of grave concern.
- 6.12. A multitude of Grade II listed buildings would be impacted upon by the development, and you will need to satisfy yourself that the individual and cumulative impact of the development on the setting of these designated heritage assets is appropriately considered. We would like to draw your attention to a number of these buildings. Bexon Court, a handsome early 16th century hall house, that stands at the corner of Hawks Hill Road and Bexon Lane, signalling the beginning of Bexon to the south-west and the long run-in to the centre of Bredgar to the north-west. This building is diagonally over the crossroads from the proposed new junction to the M2, a juxtaposition highly damaging to the tranquillity of the setting of Bexon Court (and indeed the rest of Bexon). In addition, the rural settings of Grade II listed buildings such as Highsted Farmhouse and Morris Court Farmhouse would also see their significance diminished as a consequence of such dramatic changes to their setting (alongside over 100 other Grade II listed buildings).
- 6.13. In terms of impacts from the development on archaeological interests and assets we concur with the responses from Historic England which we would draw your attention to both in terms of the impact on designated heritage assets and undesignated assets (archaeology). That is that insufficient information has been submitted to allow an appropriate assessment to be undertaken in order to establish the archaeological significance of the site and additional archaeological and geoarchaeological field assessments are required in order to ascertain the true impacts of the development and allow an informed conclusion to be drawn.
- 6.14. As a general observation we consider that the impacts of the development on the historic environment have not been appropriately considered. Indeed when the scale of the development is so substantial and would result in harm to such a wide range of heritage assets it is considered inappropriate for these applications to be considered in outline only. This is particularly the case for development within the Tonge Conservation Area – how can the magnitude of harm be appropriately assessed based on the uncertainty of an outline application.

- 6.15. The harm identified needs to be weighed against the public benefits of the proposal, which in this instance are not considered to be of sufficient 'calibre' to outweigh the primacy of the Development Plan and the statutory presumption under sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. It is recognised there would be economic benefits – both short and long term, with construction phase employment, onward investment through the construction sector supply chain, and subsequent occupation of dwellings and employment development resulting in increased revenue to businesses and services in the locality. However these benefits again would be replicated on other sites coming forward under the plan-led approach – are the public benefits actually needed?
- 6.16. The scale of the development and its individual and cumulative impacts on the historic environment would result in irreversible negative impacts on the significance of a number of conservation areas and listed buildings to such an extent that we do not consider can be supported when the public benefits can be delivered on other more appropriate sites which comply with the special strategy of the Borough. In addition the impact of the development archaeological interests is yet to be established to a sufficient degree to allow a decision to be made on the proposals.

7. Loss of best and most versatile agricultural land

- 7.1. Local Plan Policy DM31 seeks to protect soils that are ‘best and most versatile’ (BMV) and wherever possible direct development to areas with lower quality soils unless the site is allocated for development, there are no alternative sites on land of lower quality and the development would not affect the viability of the wider agricultural holding. NPPF (174) recognises the economic benefits of BMV. Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality).
- 7.2. The application submission is relatively quiet on the matter of agricultural land other than acknowledging that its loss would be a negative component of the development. The site would see the loss of around 670 ha of land, most of which is in current or former agricultural use – this is a significant area of land. The combined loss of BMV through the two applications is likely to be in the region of 550 ha (Grade I, 2 and 3a agricultural land). The loss of such a large area of land to agricultural use is not something that can be reversed once development begins or mitigated in any way.
- 7.3. The loss of the land is undue as there is no need for the site to be released for development, other lower grade land is available for development – where new development should be directed (allocated sites). It is not asserted that the loss of this area of BMV attracts significant weight in its own right, but clearly the protection of BMV agricultural land accords with the principles of sustainable development and is a material consideration in any planning decision affecting such land and the fact that the development is contrary to Local Plan Policy DM31 and the provision of the NPPF insofar as it relates to agricultural land.

8. Highway matters

- 8.1. It is of great significance that a holding objection has been issued by Highways England, in particular with regard to the impact of the development on the strategic road network (SRN). The response considers the proposals in line with the guidance contained within Circular 02/2013 (The Strategic Road Network and the Delivery of Sustainable Development).
- 8.2. It is noted that improvements and alterations to the SRN are generally as a result of planned improvements required by development proposals coming forward through an adopted Local Plan rather than speculative development as proposed in the current applications. Highways England highlight this fact, and they are concerned by the lack of information provided in support of the application and outline in detail the information required in relation to strategic modelling, trip generation and modal split assumptions, the design of the new motorway junction – and without all of the detailed matters raised in their objection having been fully addressed the application should not be determined (except for refusal).
- 8.3. The proposed alterations to the SRN (the new motorway junction) are not justified, they are not essential to the delivery of strategic planned growth. The new junction is merely necessary to justify an unplanned and speculative development without appropriate assessment of the alternatives. However, the alternatives are clear that is the planned development allocated within the Swale Local Plan that will deliver the homes needed within the Borough. The transport network improvements are detailed in Local Plan Policy CP2 and its preface all of which have been considered in a strategic manner which will ensure the sustainable and strategic growth in the Borough is supported by the necessary road and transport infrastructure. The new motorway junction is not needed, is not justified in the public interest and its harm to the Kent Downs AONB could not be mitigated to anywhere near an acceptable level and should not be supported.
- 8.4. The proposed Northern Relief Road (NRR) which cuts directly through the Tonge Conservation Area, would impact directly on an approved and promised country park (within the Stones Farm site) – a significant benefit promoted through the Stones Farm development. This country park was intended to cement the important countryside gap in this area to go against these important principles of previous developments and local designations in themselves renders this element of the proposal unacceptable. We would also raise concerns and questions over the deliverability of this part of the proposed infrastructure. The Council are requested to satisfy themselves that that this necessary infrastructure is deliverable within the application site and by the applicant

and if there remain questions over this then evidence should be requested from the applicant to support the deliverability of this element of the scheme.

- 8.5. The transport impacts of each of the two applications are inextricably linked and the timing of the implementation of any elements of the development should not be allowed until the necessary highway infrastructure has been delivered and an infrastructure first policy adopted to ensure that the highway infrastructure is delivered in its entirety in order to mitigate what would be immediate impacts from the development.
- 8.6. Notwithstanding the significant impact that the new road infrastructure will have on the area and the necessary evidence required to consider its impact consideration also needs to be given to the impact that additional traffic and the routing of traffic will have on the existing rural lanes within and outside the AONB including the landscape impacts noted above. It is clear from an appreciation of the width, alignment and character of these lanes (single track in places with high banks and native hedgerows) that they are not suited for the additional traffic that would result as a consequence of the development. Any improvements to address these deficiencies would have a negative impact on the rural character of these lanes both within the AONB in Bredgar and Milstead parishes but also within the rural area in between the M2 and A2. Of particular concern is the impact of the proposals on Ruins Barn Road, Bexon Lane, Hawks Hill Lane, Bashford Barn Road, Panteny Lane, Hempstead Lane, Dully Road, Church Street, Rodmersham.
- 8.7. The importance of early and strategic consideration of transport issues is at the forefront of the NPPF as outlined at paragraph 104:

Transport issues should be considered from the earliest stages of plan-making and development proposals, so that:

- (a) the potential impacts of development on transport networks can be addressed;*
- (b) opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated;*
- (c) opportunities to promote walking, cycling and public transport use are identified and pursued;*

(d) the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains; and

(e) patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.

8.8. This has clearly not been the case here and the lack of adequate information to allow the applications to be determined is a significant failing of the submissions. Insufficient information has been provided to allow the impacts of the development to be considered, with no meaningful consideration of what appropriate alternatives are available. In addition, it has not been demonstrated that safe and suitable access can be achieved in all areas of the development.

8.9. The NPPF paragraph 111 confirms that:

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

8.10. The submissions are so lacking in evidence it is not possible to draw an informed conclusion as to whether the residual cumulative impacts of the development would be severe or that there would not be an unacceptable impact on highway safety and as such the development can not be approved.

9. Impacts on infrastructure;

- 9.1. It is well established that healthcare facilities and schools in Sittingbourne are struggling to accommodate existing demands on their services. This is in particular of grave concern in respect of healthcare and school infrastructure both of which are under intense existing pressure.
- 9.2. Swale currently has high levels of deprivation in Sittingbourne and on the isle of Sheppey and one of the worst GP to patient ratios in the country. There are simply not enough secondary school places in Sittingbourne, which is resulting in the requirement for out migration for schooling – which is unsustainable. This shortfall in secondary places will remain until the new school in north west Sittingbourne is delivered (currently on-hold until improvements to junction 5 on the M2 have taken place) .
- 9.3. Whilst the submission includes reference to the delivery of new schools and health facilities no consideration has been given to the timing of the delivery of these services. Given the existing situation it is considered necessary that the delivery of services to support the development need to be delivered in the early phases of the development in order to ensure that the necessary facilities are available to support both the existing and new population.

10. Biodiversity

10.1. The simple scale of the development, and the fact that the site is almost entirely greenfield leads to the inevitable conclusion that the development will have a significant impact on local wildlife and biodiversity interests. The NPPF at paragraph 180 confirms that the following principles should be applied in the determination of planning applications [extract only]:

(a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

(c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists;

10.2. The proposed development includes the direct loss of parts and impact upon Local Wildlife Sites (Highsted Quarries and Cromers Wood) and Ancient Woodland (Highsted Wood and Bex Wood) as a consequence of the proposed highway alignment, industrial and housing development. The Local Wildlife Sites are important local habitats supporting a multitude of species and the Ancient Woodland is as acknowledged in the NPPF and irreplaceable habitat. Whilst the supporting ecology surveys and mitigation strategies identify compensation for these losses it is inescapable that the proposed southern link road and its route would have a significant effect on the links between these sites and the movement corridors for a number of protected species.

10.3. Again a key point here is that there are no wholly exceptional reasons to allow development to affect these natural resources, the public benefits that would result from the development in the context of Swale and its housing and employment needs can be accommodated on sites allocated for development within the Local Plan – this development and these impacts can be avoided and the impacts of the development on biodiversity interests is another compelling reason why the development proposed is inappropriate and should be refused.

11. Stones Farm Development

11.1. It is noteworthy that the northern element of the development proposals includes development (including a relief road) though land identified for the provision of a country park as part of the Stones Farm development. The importance of this county park in cementing the countryside gap to the east of an extended Sittingbourne was a clear justification for this development being considered appropriate.

11.2. This planned area of open space would be decimated by the introduction of significant transport infrastructure and run contrary to the main purposes that it was intended to serve:

- Maintain a permanent gap between Sittingbourne and Bapchild
- Protect the setting of Tonge conservation area
- Provide alternative natural green space for residents, improving biodiversity and reducing possible additional pressure on designated wildlife sites

11.3. It is also material that the permission granted for the Stones Farm development purposefully restricted any development within this area reserving it for public open space (See condition 4 of the outline permission for the development).

11.4. Our clients have instructed us to include a copy of the Promotion Agreement (including the Deed of Covenant which is publicly available through Land Registry) at Appendix 3 within this representation which raises matters as to the viability and deliverability of the development as a whole which goes to the heart of the acceptability and deliverability of the scheme. It is clear that not all of the land required to deliver the development is within the ownership of the applicants – how is it therefore possible to demonstrate that the development is deliverable?

11.5. It also remains a concern that the appropriate ownership notifications do not appear to have been carried out and we request clarification from the Council that they are content that all of the appropriate notices have been served on the owners of land shown to be within the application site – without this confirmation and evidence to support the fact there is question over the validity of the application itself.

12. Land Contamination

- 12.1 Issues surrounding land contamination are highlighted within Chapter 7 of the Local Plan, with the NPPF and PPG commenting that ‘Failing to deal adequately with contamination can cause harm to human health, property and the wider environment. It can also limit or preclude new development;’
- 12.2 Of particular concern is respect of the current applications is the impact of the former Shell Sittingbourne Research Centre. Shell owned what is now known as Kent Science Park but also much of the surrounding farmland including Cromers Woods, the surrounding area and land beyond the M2 motorway. Shell used the former laboratories, buildings, greenhouses and farmland for extensive testing of experimental substances and chemical compounds. It is also known that there are several dumping pits (used for chemicals) in the surrounding area. We have serious concerns about the impact of development on this land given that the extent of the contamination is unknown. At the time of Shells occupation the land was used in 2 year cycles for experiments, with individual fields being used as a single experiment so many chemicals could be tested across the farm at any onetime. Do chemical residues left in the soil have the potential to leach into ground water and the Special Water Protection Zone?
- 12.3 Shell owned the site from 1945 until the mid 1990’s, where chemicals including ‘Drins’ (Aldrin, Dieldrin and Endrin) were extensively used on the land in many experimental forms along with a whole host of other toxic chemicals, many of which are biomagnifiers, banned from use because of their impact on human health and the environment. Some of these chemicals are understood to have a half life of 80 years, and whilst they can remain undisturbed in the soil, if they are disturbed can leach into the subsoil and water supply – which could have catastrophic implications.
- 12.4 Dumping pits are also present around the Shell site, where glass and used containers from the labs were disposed of, we are even aware a Triumph car was put into one pit. Please see the appended document celebrating 50 years of Shell Research at Sittingbourne (Appendix 1), which describes in detail the history of the site, why it was purchased and their extensive land holdings of 332 acres that was later added to with further land purchases. We also reference a series of books called A History of Royal Dutch Shell, 4 volumes written about Shell (Appendix 2). Volume 2 specifically p 399 refers to the toxicological unit at Woodstock ‘.....Indeed, when Aldrin, Dieldrin and Endrin, which generated 90 per cent of income from agricultural chemicals, were discovered to form potentially harmful toxic residues on crops, increased research spending became necessary, hence the formation of the toxicological unit at

Woodstock'. Page 436 details that in 1963 Shell was embroiled in a scandal after a leading scientist highlighted the damage that herbicides and pesticides and insecticides had on 'upsetting the balance of nature, as dangers to bird and animal life and even as a threat to human health'. In early 1970 the use of 'Drins' were banned. Local residents who were scientists and staff have informed the Parish Councils about the thousands and thousands of experimental compounds that were used, some so secret were only known by codes. We understand that radiation was also used on site and the that containers used to store compounds leached out, requiring staff to become experts in redesigning packaging. Aerosols of chemicals were discharged across the land with the containers discarded in pits. A full investigation into possible ground contamination must be thoroughly undertaken.

- 12.5 Please note that when Shell sold the Shell farmland that surrounded the research centre, the title was split with land below the top 0.3048 metres/ 12 inches of the land held within a separate title K764737. Certain holes also appear not to have been transferred. It is uncertain why? Is this a usual way to own agricultural land? Local knowledge has confirmed that these holes coincide with the location of some known disposal pits. The Land Registry documents attached at Appendix 4 clearly set out the split in title, as well as marked holes in yellow/green depending on the title you are referring to. The appendix to the Promotion Agreement (obtained from Land Registry) clearly sets out the extent of the applicant and owners land holdings including where there are holes in the ownership. The Promotion Agreement also clearly sets out one of the objectives of the agreement is to minimise the provision of affordable housing, which the Council should be aware of and any shortfall in delivery should be suitably evidenced. Please see Appendix 3.

13. Other issues:

13.1 Water: The proposed area of development lies on the aquifer (North Kent catchment area) and we consider that placing this development upon it may put the existing populations water supply at risk. In the applicant's Water Cycle Study Volume 05 - Water Resources and Supply Report item 1.1.10 Southern Water indicate that the development will need additional water capacity increases by 2025, confirming that there is not sufficient water storage capacity now to meet Southern Water's requirements. In any event the existing infrastructure / sewage systems need to be fixed before adding further development needs.

13.2 Noise and Air Quality: The impact of the additional roads and increased traffic on noise and air quality within the area requires careful consideration in order to avoid any from a busier M2.

14. Conclusion and planning balance

- 14.1. The acknowledged need to boost housing supply does not trump all other considerations and in this case the adverse impacts of the proposed development significantly and demonstrably outweigh the benefits of the proposal. The Development Plan is the starting point for decision making and development proposals which conflict with it should be refused unless other material considerations indicate otherwise. The position is that whilst housing supply has fallen below the required for the Council to demonstrate as 5 year housing supply, the 0.4 year housing shortfall is not significant, and the Council are actively working towards making up this shortfall and achieving a five year supply.
- 14.2. The site is located outside the defined built-up area boundaries, with no special circumstances that would presently warrant support in principle for the development of the site and the resultant encroachment of built development in to the countryside, contrary to the plan led system and the sustainable spatial strategy of the Local Plan. This conflict with the plan led system indicates an unsustainable development from the outset. In considering the three dimensions of sustainable development and whether there is a mutual balance reached under the proposals, it is evident that there are social and economic benefits of the scheme through the provision of new housing, infrastructure and employment development. However, these benefits would be replicated on other sites coming forward under the plan-led approach and thus add little weight to the overall planning balance.
- 14.3. Significant harm arises in the environmental dimension. The proposal development is considered to have a detrimental impact on landscapes of acknowledged importance including the Kent Downs AONB, areas of High Landscape Value, Important Countryside Gaps and Rural Lanes by virtue of introducing new development and supporting highway infrastructure on prominent sites which individually and combined form an important component of the historic character and appearance of this area.
- 14.4. Harm to heritage assets is also of grave concern, the scale of the development and its individual and cumulative impacts on the historic environment would result in irreversible negative impacts on the significance of a number of conservation areas, listed buildings and archaeology (which has yet to be adequately explored).

- 14.5. There remain many unanswered questions in respect of the potential for historic land uses within the site to affect the suitability of land for development. The use of part of what is now Kent Science Park and its surrounding agricultural land by Shell as part of their research in to the use of chemicals could have a significant impact on the suitability of that land for any form of development. The supporting baseline studies do not appropriately grapple with this issue and it is considered necessary for these matters to be addressed through suitable investigations prior to the determination of these applications.
- 14.6. The transportation issues, their need and resultant impacts on the landscape and historic environment weigh significantly against the development. The need for the new motorway junction is unfounded and certainly not in the public interest. The lack of adequate supporting information to justify or consider the wider transport impact of the development also weigh significantly against the proposal.
- 14.7. The benefits of the development are not considered to be of such magnitude so as to outweigh the harm identified, with the environmental harm instead considerably outweighing the benefits of the scheme. This proposal is an unplanned development contrary to the strategy of the Local Plan to provide the sustainable delivery of housing across the Borough advocated by the plan led system – in particular Local Plan Policies ST1 – ST5. With the site not featuring in the plan, and having been discounted by the Council in its preparation of the Local Plan Review is further indication that the development is not sustainable in principle, and the specific environmental harm which arises from the development confirms this. Consequently, it is not considered there are other material considerations which outweigh strong direction in the NPPF to refuse development which gives rise to such wide ranging negative impacts on areas and interests that it seeks to preserve and enhance – especially when there are no overriding public benefits to the development.