



Appeal Decision

Inquiry held on 28 September 2021 – 4 October 2021 and 25 October 2021

Site Visit made on 26 October 2021

by **S J Lee BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26th January 2022

Appeal Ref: APP/A2280/W/21/3276221

Land at Upnor Road, Upper Upnor, Rochester, Medway ME2 4XE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Esquire Developments against the decision of Medway Council.
 - The application Ref MC/20/1478, dated 19 June 2020, was refused by notice dated 26 February 2021.
 - The development proposed is the erection of 72 No residential dwellings including 18 x affordable housing and erection of Children's Nursery (Use Class E(f)) associated car parking and infrastructure; new landscaping and public open spaces including new public rights of way and new bus stop; sustainable urban drainage system and associated earthworks and a new vehicular access from Upnor Road.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The original application was for 75 dwellings. This was amended to 72 dwellings with a nursery during the consideration of the application and is the proposal on which the decision was based. For the avoidance of doubt, I have used the amended description in the header above.
3. After the close of the Inquiry, the Council submitted a Secretary of State¹ decision that is material to this appeal. Comments were invited from the other main parties and I have had regard to any received.
4. A planning obligation was concluded between the appellant and the Council on 5 November 2021. The terms of this were discussed at the Inquiry. I deal with the provisions of the obligation below.

Main Issues

5. The main issues in this appeal are:
 - Whether the development would be in a suitable location with regard to relevant local and national policies on housing in rural areas;
 - The effect of the development on the landscape character, function and appearance of the area; and

¹ Appeal reference: APP/A2280/W/20/3259868 (the 'Pump House' appeal)

- The effect of the development on highway and pedestrian safety in the vicinity of the site.

Reasons

Spatial Strategy and Location

6. The appeal relates to open arable fields. These partially abut the rear gardens of houses on the western side of Castle Street and woodland. The site slopes from the ridge of Castle Street in a westerly direction toward the open and undeveloped valley bottom. The larger settlements of Wainscott and Frindsbury lie further to the west, beyond the A289. The villages of Lower Upnor and Upper Upnor lie to the northeast and east of the site respectively. Neither the site nor the dwellings on Castle Street are physically or visually connected to these settlements. Other features of note within the vicinity of the site, include Tower Hill House located at the end of Castle Street, the wastewater treatment works (WWTW) which sits to the southwest of the site and tennis courts which are located to the northwest. An area used by the military also lies to the south of the site, though this is well screened by the woodland and has no clear direct relationship with the site.
7. The Development Plan for the Borough consists of the saved policies of the Medway Local Plan (MLP)(2003). The spatial strategy for the area is set out in Policy S1. This states that the priority for development is reinvestment in the urban fabric, with a focus on underused and derelict land in the Medway riverside areas and Chatham, Gillingham, Strood, Rochester and Rainham town centres. The policy also states that outward peripheral expansion onto fresh land, *particularly* [my emphasis] to the north and east of Gillingham, will be severely restricted.
8. My reading of this policy is that it seeks to resist *any* outward expansion onto greenfield land. The reference to the area to the north and east of Gillingham seeks only to highlight a particular priority and not suggest that outward expansion onto other fresh land is acceptable in other locations. As the proposal is in the open countryside on fresh land, it would conflict with this policy and the Plan's overall spatial strategy. Although the Council did not include this policy in their reason for refusal, there is no dispute between the parties that the development would conflict with it. The omission of the policy from the decision notice does not alter this fact or its relevance.
9. Policy BNE25 sets out the approach for development in the open countryside. This only allows for development if it maintains or enhances the character, amenity and functioning of the countryside, offers a realistic chance of access by a range of transport modes and meets one of the listed 'exceptions'. I shall return to issues of character and appearance and accessibility below. However, whatever my conclusions on these factors, the proposal meets none of the exceptional requirements under criteria ii. – vi. Thus, the development also conflicts with this policy.
10. The existing Castle Street area contains no services and facilities of any kind. Some travel would therefore be necessary for future residents to meet most day-to-day needs. The Statement of Common Ground (SoCG) between the Council and the appellant lists and maps several facilities in the vicinity of the site. The appellant's Transport Statement identifies a preferred maximum walking distance of 800 metres. The distance data provided in the SoCG is

measured in a straight line and does not take account of walking routes or any barriers to pedestrian trips. Nonetheless, there are some key facilities that would be on the very cusp of a reasonable walkable distance, including Wainscott Primary School and the Co-op store in Wainscott. However, the most direct route to these requires using public rights of way across open land and the footbridge over the A289. Notwithstanding the distance, this may not be an attractive route for many residents, particularly in the dark or in inclement weather. Most other services listed within a walking distance are either recreational or leisure uses and, while nice to have, are not critical to meeting everyday needs. All other key services listed are outside what I would consider a reasonable walking distance.

11. All in all, while *some* day-to-day needs could be met by walking, the distances and routes involved suggest that very few people would take this opportunity, and only then in limited circumstances.
12. The area is served by the 197-bus service. The nearest existing bus stop is around 300 metres away on Upchat Road. While within a reasonable walking distance, it would require walking along an unpaved and unlit road. The limitations of this have been recognised and the proposal includes provision for new bus stops to the west of the site. A new footway would also be provided from the edge of the site to the bus stops and there is a financial contribution toward improving the 197 service within the S106 agreement.
13. The 197 does not provide access to all local services or facilities. There are no services in the evening and very limited services at the weekend. Other services are available from Wainscott, but the route and distance to these stops is unlikely to provide a realistic option for most journeys. As noted by the Castle Street Community, the 197 does not necessarily serve the nearest schools, shops, health services or railway station. It does however provide access to other transport interchanges and facilities in the wider area. It would be wrong to say there are no opportunities to use public transport. However, the nature of the route and the number of buses per day means it is still unlikely that public transport would provide a realistic alternative to the car for most journeys.
14. The need identified for the nursery is not centred on the development. It is therefore likely to attract trips from the wider area. Even accounting for the possibility that residents of the development or Castle Street might make use of the service, it would be reasonable to assume that most customers would come from outside the immediate area. The number and timing of bus services and relationship between proposed bus stops and the nursery makes it less likely that many trips would be by bus. This is likely to temper any accessibility credentials of the development and offset the opportunities that residents would have to reach local services by walking or public transport.
15. In conclusion, the location of the development is in clear conflict with the strategy as set out in Policy S1 of the MLP. This seeks to direct development to urban areas and resist development in the open countryside. As noted above, irrespective of my conclusions on character and appearance and accessibility, the development would also conflict with Policy BNE25 of the MLP which seeks to control development in the open countryside.
16. The Council did not refuse the proposal on the basis of accessibility, but concerns were raised by the Castle Street Community. The evidence suggests

there is an issue as to whether the development meets the requirement of Policy BNE25 to offer a realistic chance of access by a range of transport modes. There would be some opportunities to access services and facilities by alternatives to the car for future occupants. The development would also improve access to public transport through additional infrastructure and funding. These alternatives would not however be realistic for many or most day-to-day trips. While not necessarily unusual in rural locations, there would still be a reliance on the car for most residents.

17. In my view, while no doubt more accessible than some rural areas, the development is not in a location where there is a truly realistic chance of access by a range of transport modes for most trips. As such, this represents another element of conflict with Policy BNE25. In considering the weight given to this, I shall have regard to the opportunities that do exist and the relative distances to nearby settlements.
18. In terms of national policy, paragraph 79 of the National Planning Policy Framework (the Framework) states that housing in rural areas should be located where it will enhance or maintain the vitality of rural communities. It goes on to state that where there are groups of settlements, development in one village might support services in a village nearby. The proposed development would be able to support services in nearby villages and towns. However, this could be said of any development anywhere. Importantly, this is not a village location and thus this is not a case of development in one village supporting another. Rather, it is expanding an enclave of sporadically located housing in the countryside, which is not advocated in the Framework. Therefore, there is some conflict with national policy in this regard. However, this would also be tempered by the relative distances to nearby settlements, which are not significant.
19. Paragraph 105 of the Framework states that the planning system should actively manage patterns of growth to address transport issues and that significant development should be focussed on locations which are, or can be made, sustainable. While this emphasises limiting the need to travel and offering genuine travel choices, it recognises that opportunities to maximise sustainable travel will vary between urban and rural areas. For the reasons given above, I am not persuaded that the location of the proposed development fully meets the expectations of this policy. I am also mindful that any harm resulting from this is mitigated to an extent by those opportunities that do exist.

Landscape character, function and appearance of the area

20. The site is not within any nationally important landscape designations. It is however within an area identified as the Hogmarsh Valley 'Area of Local Landscape Importance' (ALLI) as defined by Policy BNE34 of the MLP. This states that development will only be permitted if it does not materially harm the landscape character and function of the area, or the economic and social benefits are so important that they outweigh the local priority to conserve the area's landscape.
21. The function of this ALLI, as set out in the policy's supporting text, is that it forms a green buffer separating, and providing a green backdrop for, the built-up areas of Medway City Estate, Frindsbury, Wainscott, Lower and Upper Upnor and Chattenden. It also provides an attractive setting for the A289, connects all

- ALLIs at Chattenden Ridge, Deangate Ridge and Cockham Farm Ridge and provides an attractive setting for Manor Farm and Upnor Conservation Areas.
22. The site is within the North Kent Plain national landscape character area and at a County level, the Hoo Peninsula Character Area². The Medway Landscape Character Assessment (MLCA)(2011) draws on these assessments and identifies the site as being within the Hogmarsh Valley Character Area. More specifically, it lies within a broad typology of urban fringe. Amongst other things, the MLCA describes the area as being a broad valley with open, gently rolling arable farmland and distinctive elevated woodland backdrops, including at Tower Hill, which is adjacent to the site. Although published after the MLP, the MLCA nevertheless repeats and reinforces the idea that the area forms a green buffer, a distinctive gateway and green backdrop to Medway's towns.
23. The site reflects this broad character, forming part of the rolling arable farmland and having a strong visual and physical relationship with the wooded ridge and the valley floor. The assessment does however highlight that while the area retains its rural character, its coherence and overall integrity is disrupted by urban fringe features. Overall, it concludes that the landscape condition of the area as a whole is poor and sensitivity moderate.
24. The Hoo Landscape Capacity and Sensitivity Study (HLCSS) came to light after the two landscape witnesses had given their evidence. With the agreement of the parties, I allowed written statements to be submitted prior to the close of the Inquiry. This has not prejudiced any party's interests. The document has been produced to support the preparation of the Council's emerging Local Plan (eLP). The title page suggests that the document is still in draft form. It also has not been subject to any scrutiny through the local plan preparation process. Nevertheless, the parties had the opportunity to comment and highlight any inaccuracies or concerns they had about its content and nothing of significance was raised. Accordingly, I see no reason why I should not have regard to the report's findings, particularly as it represents a more recent assessment of the area and is able to take account of any changes that have taken place in the area since the publication of the MLP and MLCA.
25. This document also highlights similar characteristics to those set out in the MLCA. In particular, the broad valley with open character, mixed land uses including arable farming on the valley sides and floor, distinctive woodland backdrops along upper slopes and ridgelines, contribution as a green buffer and the function as an attractive and distinctive landscape setting and gateway for arrival into the Medway Towns. While the report concludes that the sense of place is intact, coherent and either predominantly rural or semi-rural, it also recognises that there are adverse urban or infrastructure factors in the area.
26. Overall, the report considers the landscape and visual sensitivity of the Hogmarsh Valley area to be high, with a medium value and medium high 'landscape capacity'. While this appears positive about the potential for change, this is the second lowest category of five in terms of suitability for development (the lowest category confusingly having 'high' landscape change capacity). The conclusion for this is that the area can accommodate development *only* in defined and limited situations without significant character change.

² The Landscape Assessment of Kent (2004)

27. While I was able to come to my own conclusions about the quality of the local landscape and the effects of development, I was assisted by the two landscape witnesses and their various assessments. It is fair to say that they had quite different views on the approach to Landscape and Visual Impact Assessment (LVIA), the quality and value of the landscape and the likely effects of the development.
28. There was agreement that the area defined by the ALLI should be considered a 'valued' landscape in the context of paragraph 174a of the Framework. The Council's witness concluded the value of the landscape was 'inherent' and the ALLI policy simply sought to reflect this. The appellant considered any value was derived purely from the ALLI designation and its 'functions' rather than any particular quality or beauty.
29. There is no definition of what constitutes a 'valued' landscape. Paragraph 174a does however refer to any identified quality in the development plan. Notwithstanding the age of the MLP, it nevertheless identifies the ALLI as being important. Whether or not the value is derived from its functionality (which, in any event, refers to 'attractiveness' three times in relation to the functions and is a description I agree with) or some other perceived 'scenic' quality is moot. Value can be derived from different sources, including any landscape functions the area has, and one does not necessarily outweigh the other. However, in considering the effects of the development, I have been cognisant of the fact that the area is not in the same high category as a National Park or Area of Outstanding Natural Beauty.
30. The Council's landscape witness considered the site to be of medium to high landscape quality and of high landscape value. They also concluded that the area is of a high susceptibility to change and of a high overall sensitivity. It is important to note that the analysis of the Council's witness was of a smaller area than the ALLI as a whole, relating broadly to the visual envelope of the site. There is nothing inherently wrong in this approach but it might naturally lead to a higher degree of sensitivity. The appellant's witness considered the site to have medium landscape value and the sensitivity of the area to be no higher than medium.
31. I have, on balance, tended toward the Council's position on landscape quality, value and sensitivity. Their observations and conclusions better reflect my own, particularly in relation to the attractive nature of the site and its prominence and exposure to views resulting from its elevated position. I consider that the appellant's witness has tended to downplay the positive aspects of the landscape and overstate the effect of the recognised 'detracting features'.
32. One of the main areas of disagreement and debate centred on the character and effect of the existing Castle Street housing. In particular, the extent to which it could be considered an urban area or 'houses in the countryside'. This seems like a somewhat academic distinction, as it is the *effect* of the housing on the landscape character and quality which is important. Castle Street constitutes two linear rows of housing on each side of the road. This terminates in the private drive of Tower Hill House and woodland. In total, there are around 30 dwellings. There is an expanse of woodland to the east and south of the housing. It sits on the brow of the slope overlooking the site, which constitutes open agricultural fields with verdant boundaries. There is a clear

- physical and visual separation between Castle Street and any other settlement. Tower Hill House is also detached from the other housing on the street
33. The rear of the houses on the western side of Castle Street are prominent features in views from the west and south of the site. Filtered views are also possible through the hedgerow which borders the site. Clearly, these represent something of an urbanising influence of the character of the area. However, the effect of this should not be overstated. These dwellings represent a relatively small enclave of housing in amongst fields and woodland. The street is physically distinct and separate from any defined settlement and is thus a somewhat visually isolated pocket of development in the open countryside. The fact that the ALLI designation washes over Castle Street is testament to it not being considered 'an urban area' in the context of the wider landscape character.
34. There is no homogeneity in the design or appearance of dwellings along the street. The irregular styling of the dwellings helps break up any sense of uniformity and reinforces the ad hoc nature of housing. The linear layout also provides it with a relatively small profile in wider views insofar as it sticks to the ridge and does not encroach down into the valley. This helps to maintain the visual integrity of the fields and their link to the wooded ridge and open valley floor. It is also not entirely fair to describe the rear gardens as 'unmediated' as there is soft landscaping along the rear boundary of some dwellings which helps to soften the overall visual impact of the houses. This also helps ensure that the edge of the existing housing is not seen as harsh or stark.
35. The dwellings on Castle Street therefore appear as they are; a small pocket of sporadically located housing in the countryside. In wider panoramic views from the west, the housing makes up a relatively small part of the view. The open arable fields of the site extend far beyond the extent of the existing housing. The unobscured fields and woodland make up a much more extensive and prominent part of the Hogmarsh Valley area. The existing housing does not create an overwhelming sense of urbanisation of the area or encroachment. The appellant's conclusion that the proposed development could in any way 'mitigate' the perceived impact of Castle Street or lead to an improvement to the local landscape is not a realistic conclusion. For this to be the case, there would have to be something particularly offensive about the housing on Castle Street which is clearly not the case.
36. The WWTW is visible in context with the site from some vantage points. However, it is visually disconnected from the site and the buildings sit at a lower level. While clearly detracting from the rural character of the valley, the overall impact is minimal both in terms of the ALLI as a whole and in relation to the site. I do not consider the scale, nature or siting of the WWTW to undermine the predominantly rural character of the site or wider area.
37. The tennis courts are largely an open feature, though clearly there are buildings and other paraphernalia such as floodlights which set it apart from open fields. The courts however sit well below the site and are more closely related to the valley bottom. These are a fairly minor and unobtrusive feature that do not have a significantly harmful impact.
38. The A289 is a significant feature which runs along the boundary and through part of the defined ALLI area. It has an obvious visual and aural impact on the

landscape character of the area. The edge of the Wainscott and Frindsbury urban areas lie immediately adjacent to the road. The Medway City Estate is also visible in some views to the south, albeit clearly distinct and some distance from the site. These features largely frame the Hogmarsh Valley in this part of the ALLI, thus giving it the urban fringe typology. They create a clear urban edge, being visually and physically distinct from the site and only serve to emphasise the role of the ALLI in providing a green buffer and relief from the built form.

39. These 'detracting' features are fairly dispersed and do not collectively create an overwhelming sense that the site is within an urbanised area. I am also mindful that they were in place when the ALLI was designated. None was sufficient to justify omission of the site or its environs from the designation. In addition, the HLCSS does not appear to suggest that the situation has deteriorated significantly in the period since the MLP and MLCA were published.
40. To my mind these features also serve to highlight the value of the site within the ALLI. Rather than diminish the importance of the site, the continued presence of two prominent open agricultural fields with verdant hedgerows and a close relationship to the woodland, particularly in the south of the site, help to maintain the overall quality and function of the ALLI. The appellant argued that these were not rare features in the landscape. However, as argued by the Council, such fields are not commonplace features within the vicinity of the site. Loss of the fields in this context would have an obvious negative impact on the landscape character of the area. They are important features which make a positive contribution both to general landscape character but also the functions of the ALLI. The development would therefore serve only to exacerbate any harm caused by the 'detracting' features, not least as it would bring the built form closer to the road, tennis courts and the WWTW.
41. The appellant has sought to downplay this by reference to the overall scale of the site in relation to that of the ALLI, the quality of design, the provision of improved pedestrian access through the site and into the neighbouring land and the proposed landscaping. To this end, the appellant's evidence referred to the creation of an 'instant sylvan appearance' to the site. However, this is not reflected in the landscape strategy. This illustrates that tree planting would be dispersed across the site and would not be of a density to reflect or complement the wooded ridge. While Mr Warren acknowledged that referring to a 'sylvan appearance' constituted an element of hyperbole from his witness, it is important that assessments of landscape and visual impact are based on realistic and objective assessments.
42. When questioned about this, the landscape witness argued that it was improvements on the lower slopes of the site and/or outside the boundary in the appellant's ownership that would enhance the Hogmarsh Valley character. Although such enhancements, including enhanced public access, might generally be welcome, they are not critical and would not mitigate the landscape, or visual impacts, of the development. As evidenced by the photomontages, the development would still be a highly prominent feature from various vantage points and any landscaping enhancements would not alter the clear loss of the open and undeveloped fields and the change in character from rural to urban. This would be the case both at the start of the development and after 15 years.

43. Any improvements in access to the Hogmarsh Valley through the site would also have limited benefit in terms of landscape character and function, particularly as the new public right of way would be so closely related to the new, intrusive built form. They would in no way provide adequate mitigation, or justification, for the proposal.
44. The proposed vehicular access would be located on Upnor Road which has the characteristics of a country lane. It is narrow, unlit and framed by trees and hedgerows on either side. Although filtered views of the site are possible through the existing hedgerow, this only confirms the open and agricultural nature of the site. After some dispute, the parties agreed that the access would lead to the loss of around 68 metres of existing hedgerow³. This is a significant loss and is much greater than the appellant's landscape witness considered in his original assessment. This would be replaced by an engineered access of substantial width and extensive visibility splays in either direction. While there would be replacement planting and landscaping, this is unlikely to be able to replicate what would be lost, even in the longer term. Any new hedgerow would either have to be set back from the road and/or maintained at a low level to facilitate visibility. It would inevitably have a more managed appearance, not in-keeping with, or replicating, the existing field boundary.
45. The existing character of the lane would be further diminished by the need for lighting columns at the access and the clear and obvious presence of housing near to the entrance. Even with replacement landscaping, these features would always be visible through the wide access. The effect on the character of the area would not therefore be temporary or mitigated in the longer time by replacement planting. In both the short and long term, the access would be more akin to that of a suburban housing estate and would not complement to the area. The increase in activity on the lane and around the new access would also emphasise the change in character.
46. Local topography, intervening vegetation and the bends in the road mean that the impact of this would be relatively localised. However, the existing character of Upnor Road makes a positive contribution to the predominantly rural character of the site and immediate environs. This would be undermined by the development and thus adds to the cumulative detrimental impact on local landscape character and appearance. The incongruous nature and scale of this change would be readily apparent to any passers-by.
47. In terms of the impact on the 'green buffer' function of the ALLI, it is important to note that Castle Street is washed over by the ALLI designation and is thus *within* the buffer. The development would therefore not technically close the gap between the Upnors and other settlements, but rather would add to the built form which already exists within the buffer area.
48. The encroachment of development toward the valley bottom would not lead to the coalescence of the Upnors and Wainscott, Frindsbury or the Medway City Estate. However, this does not mean that the development would not have a significant impact on the buffer function. While visibly prominent on the ridge, the housing on Castle Street is clearly a relatively minor feature in the wider landscape. It is also something of an anomaly, being a short, linear row of housing physically and visually disconnected from any other settlement. From

³ Following some dispute between the parties on the length of hedgerow to be lost, I asked for an agreed position. This was provided in the form of the 'Upnor Access Existing Vegetation Plan'. This identified a length of 68.25m.

the south and west, the buffer function is most clearly perceived to be from the wooded ridge and fields between Castle Street and the road. The encroachment of the housing down the slope toward the road, and the overt urbanising of the gap, would in my view have a detrimental impact on the role of the ALLI as a 'green' buffer.

49. While this would not lead to the physical coalescence of the settlements, it would still discernibly reduce the open and undeveloped nature of the gap that currently exists. It cannot be simply dismissed as another example of development *within* the buffer. Rather it would instead appear as a much larger settlement than currently exists and result in the creation of a new and substantial urban 'edge' within the buffer.
50. Although the site makes up a relatively small part of the overall ALLI, different parts of the designation will be more important than others in terms of the green buffer function. Given the elevated position and prominence of the site and its location between the Upnors and Wainscott, this part of the ALLI is particularly important in establishing the green buffer. The development would unacceptably erode this function.
51. The importance of the site itself to the 'green backdrop' function should also not be underestimated. While it sits in front of the Castle Street housing and the woodland, it still contributes to the general 'green backdrop' of open countryside between settlements. The Castle Street housing clearly obscures some of the wooded ridgeline. However, this only represents a relatively small part of the woodland. The site extends far beyond the end of Castle Street and the wooded ridgeline extends for the full length of the site. Much of this is unobscured and this relationship is a particularly important part of the 'green backdrop'.
52. Where the proposed housing abuts Castle Street, there would be no visual effect on the wooded ridge as only the tops of the trees are currently visible. This would not change per se, but the additional housing immediately adjacent to Castle Street would clearly erode the green backdrop. Further along, the woodland would be partially obscured by new housing, with the tops of trees still being visible. While it might be argued this is a similar situation to Castle Street, the obstruction of views of the woodland would be accompanied by the loss of the open fields and greater depth of development. The impact would not be satisfactorily mitigated by layout or landscaping. Even taking account of these factors, the development would be a prominent and extensive feature that would permanently erode the extent and quality of the green backdrop.
53. The importance of the Hogmarsh Valley to the 'setting' of the A289 is obvious when viewed from the footbridge that crosses the road. Viewed in the round, the setting from this point is made up of the built form of Wainscott and Frindsbury and the road itself. The open and largely undeveloped character of the valley helps to break up, and provide relief from, the urban form. The site makes an important contribution to this by extending the open character up the slope toward Castle Street and the woodland. I do not agree that the point of this function relates only to people travelling along the road or that intervisibility between the site and A289 is not important. The setting of the A289 is arguably anywhere the road can be viewed or experienced.
54. From the A289 footbridge, the development would have an obvious detrimental impact on the setting of the road and the gateway to the settlements. I cannot

accept that the loss of fields and proposed spread of housing across the slope, well beyond the end of Castle Street, would not erode the existing attractive nature of the site. Views of the site are fleeting and glimpsed when travelling along the A289. Nevertheless, the site is still visible and, in places, it remains a prominent feature by virtue of its elevation and slope. The so-called detracting features are also visible to an extent, including Castle Street, but here again I find that the site itself still stands out in comparison to these features and clearly provides an important part of the attractive setting.

55. Although there is no suggestion the proposed development would harm the setting of any heritage assets or the other function of linking the different ALLIs, it would nevertheless have a significant adverse impact on the green buffer, green backdrop and setting of the A289. As such, the proposal would lead to the deterioration of the ALLI function.
56. In terms of the visual effect of the development, some of which has already been discussed above, the Council concluded that the development would result in medium to high adverse impacts. The appellant considered that there would be an overall improvement in visual amenity terms. Again, I cannot accept the appellant's conclusions in this regard. These are again influenced by their position that the site and its environs have an urbanised character and appearance, and that additional development, with associated landscaping and enhancements to public rights of way, are able to provide some sort of mitigation. This is not the case. On balance, I therefore find the Council's assessment of visual effects to be the more persuasive and realistic.
57. While there are viewpoints around the area where the development would not be seen, there are others from which it would be a highly prominent feature. This is particularly the case for the residents of dwellings on the western side of Castle Street, users of public rights of way around the site and further to the west (both existing and proposed) and people passing by on Upnor Road. For these highly sensitive receptors, the development would represent a large and intrusive incursion into the countryside on a prominent slope. The magnitude and severity of the change would be highly adverse in these areas. Even from the edge of Wainscott, where visibility might only be from dwellings on the edge of the settlement, the change in character would be clearly discernible and encroachment clear.
58. The appellant has put great weight on the quality of the proposals, which are low density and said to have a 'farmstead vernacular', and the ability of this to mitigate or minimise any landscape or visual harm. I acknowledge that the design of the buildings would be of a high quality and some regard has been had to the countryside location of the development. However, good quality design is a minimum expectation of local and national policy. While comparison was made with the 'box like' dwellings found in developments elsewhere in the vicinity of the site, I do not consider the development to be of such exceptional quality that it would constitute an improvement on what is already there or provide adequate mitigation for the harm caused. From any distance, any supposed benefits of the 'farmstead' appearance of individual buildings would not be obvious and the development would still appear as a large, albeit low density, suburban housing estate in the open countryside.
59. In conclusion, it is axiomatically the case that the development would result in harm to the landscape character, function and appearance of the area. Loss of

open agricultural fields in a prominent position, extending down a slope toward the valley bottom will have a clear and detrimental urbanising impact. The development would not complement or enhance the existing built form and would instead appear as an unduly large and unsympathetic extension.

60. I am not persuaded that the existing short, linear row of tightly grained dwellings at Castle Street, or other nearby development, justifies the creation of a much larger estate, both in terms of the number of dwellings proposed and the more sprawling extent of the site. Even accounting for the quality of the design of dwellings and the nursery, it would be unrealistic to conclude that the development complements the Castle Street housing or provides any enhancement to the existing environment.
61. The development would clearly conflict with criterion i. of Policy BNE34 of the MLP. This seeks to ensure that development does not materially harm the landscape character and function of the area. Criterion ii. of the policy requires a balancing exercise to be carried out, weighing the social and economic benefits against the harm caused. I shall return to this matter below. There would also be conflict with MLP Policy BNE25 which includes provisions to maintain and, wherever possible, enhance the character, amenity and functioning of the countryside.
62. In addition, there would be conflict paragraph 174 of the Framework which seeks, amongst other things, to ensure development protects and enhances valued landscapes and recognises the intrinsic beauty of the countryside.

Highway and pedestrian safety

63. Highway safety was not identified as a main issue at the opening of the Inquiry, though I made it clear that I may elevate any issues discussed to this level if the evidence merited it. The Castle Street Community raised a number of issues relating to highway safety and the effect of the development on the transport network. I am conscious that the Council did not refuse the application on this basis and that the Highway Authority raised no objections, subject to conditions and the mitigation measures that form part of the proposal. This is a material consideration of significant importance.
64. However, based on the evidence submitted and my site visit, I consider that there is merit in some of the concerns raised. When the proposal was amended, the appellant submitted a statement to the Council suggesting that the difference between the three dwellings and the nursery would be an additional 20 trips per day. This included an additional 6 vehicle movements in the morning peak, and 5 in the evening peak. The appellant's Transport Statement suggested the 75 dwelling scheme would generate 450 vehicular trips per day. Three dwellings would therefore account for around 18 trips per day.
65. The appellant ostensibly based their assessment on the use of industry standard TRICs data. However, it was confirmed that the TRICs data used is not before me and thus it is not possible to confirm the figures. Moreover, even if this is the case, any data must be considered and critically assessed for logic and common sense.
66. Mr Sharp for the Castle Street Community questioned the figures by estimating the likely number of trips generated by the nursery based on an assessment of

the jobs created and number of places the nursery would provide. This resulted in figures of between 145 and 156 trips per day, or an increase of 127 to 138 in comparison to the original application.

67. The nursery would generate 22 full time equivalent jobs (FTE) and have a capacity of around 45 children. A letter supporting the application indicates that the nursery could operate from 0730 to 1830 and offer full day care. While I would expect some comings and goings throughout the day, it would be reasonable to assume most trips would take place during peak times. Even accounting for some customers coming from the proposed development or Castle Street, the majority are likely to be from outside the immediate area. Given the location of the nursery within the site, the nature of bus services in the area and pedestrian access, it is also reasonable to assume that the majority of staff and customers from outside the immediate area would visit by car. On this basis, it seems unlikely that this would generate only around 38 trips across the entire day.
68. Whether or not Mr Sharp's estimates are entirely accurate themselves, they do raise a pertinent question as to whether the effects of the nursery have been robustly assessed. In coming to this conclusion, I have also had regard to the appellant's points about the various ways in which people may visit the site, the potential for local residents to be customers, car-pooling and the rest. Nevertheless, I am not persuaded that a facility of the size, nature or location proposed would generate such a small number of daily vehicular trips, particularly at peak hours. For all the speculation about what might lead to trip numbers as low as those suggested, there is no substantive evidence before me which provides a clear justification.
69. On this basis, it is not possible to conclude that the access arrangements have been based on a robust assessment. It seems to me to be a reasonable assertion that there would be more movements at the access and along the lane than anticipated. This creates the potential for additional conflict between vehicles seeking to enter and exit the site, as well as for pedestrians and cyclists. A significant amount of activity around this access, particularly at peak times, could give rise to safety issues for pedestrians, cyclists and car users.
70. The widening of the road would be of some assistance here. Nevertheless, given the characteristics of the lane, including the width of the road (even when widened), significant gradient, the lack of paving and lighting (other than in the site) and, in particular, the bends at either end of the visibility splays, I cannot conclude with any certainty that the access arrangements would be safe for all users. I am conscious that there is no recent evidence of accidents involving pedestrians or drivers, but the nature and use of the lane would change significantly and thus this provides no particular comfort.
71. I have fewer concerns about the impact of additional traffic on the wider transport network. I am not persuaded that even with a higher level of trip generation, the development would result in severe transport problems on the wider network. However, this does not alter my view that the robustness of the data used is questionable and that this raises concerns about the adequacy of the access arrangements. This lack of certainty leads me to conclude that there would be conflict with MLP policies T1 and T2 which seek to ensure, amongst other things, that development will not significantly add to the risk of road traffic accidents or is detrimental to the safety of vehicle occupants, cyclists

and pedestrians. The development would also conflict with paragraph 110 of the Framework, which states that development should create safe and suitable access for users. Paragraph 111 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Other Matters

Five-year housing land supply

72. There is no dispute between the parties that the Council cannot demonstrate a 5-year supply of deliverable housing land. The most relevant policies for the determination of the application are therefore considered to be out-of-date. In this context, paragraph 11d(ii) of the Framework states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework when taken as a whole.

73. There is dispute about the scale of the deficit that exists. The Council consider they have a 3.03-year supply⁴. The appellant suggests the figure should either be 2.54 or 2.93 years. Whilst this amounts to a difference of only half a year, it actually has a very significant bearing on the 'real' scale of the shortfall. The three figures suggest a deficit of somewhere between 3,932 and 5,813 dwellings.

74. The differences stem from how the parties have calculated the 5-year housing requirement. As the plan is more than five years old, the starting point is the standard Local Housing Need (LHN) methodology endorsed by the Framework. There is no disagreement that the base requirement, with the necessary 20% buffer, is 8,310 dwellings. The distinction between the parties is whether or not any shortfall in delivery from 2018 should be added to the requirement or not (2018 being the year in which the standard methodology was introduced).

75. There is nothing in the Framework or Planning Practice Guidance (PPG) which establishes that shortfall from 2018 should be added to the requirement figure. Paragraph 74 and footnote 39 of the Framework are clear that when a strategic plan is more than five years old, the five-year housing land requirement should be based on the standard methodology. The only modification referred to in this is that a buffer should be included. There is no mention of including shortfalls from previous years.

76. The appellant has drawn my attention to paragraph 68-022 of the PPG. This refers to the need to include an appropriate buffer to the requirement figure and that this should be added to the requirement figure 'including any shortfall'. It goes on to state that this will lead to a figure over and above that indicated by the strategic policy requirement or the local housing need figure. In my view, the reference to the housing requirement being higher than the local housing need figure relates to the effect of the buffer, not the effect of any shortfall. Moreover, paragraph 68-031 of the PPG is clear that it is not necessary to factor in past under-delivery separately, as this is factored into the affordability ratio. If the appellant's approach were correct, then I consider it would be made explicit in the guidance. I therefore prefer the Council's

⁴ At 31 March 2020 – the latest data available.

approach to calculating the 5-year requirement and thus conclude that they can demonstrate a 3.03-year supply.

77. Irrespective of the extent of the shortfall, there is a very significant deficit in the amount of deliverable housing land. It is also clear that this issue is unlikely to be resolved satisfactorily through piecemeal windfall development. A strategic solution delivered through a new local plan is clearly necessary.
78. To that end, the Council has been in the process of preparing a new local plan for some time. Much was discussed at the Inquiry about the emerging plan and its status. The 'Regulation 19' version of the Plan has not been subject to consultation and publication has been delayed. While the eLP may provide a mechanism to deal with the shortfall at some point, there is too much uncertainty for it to carry significant weight at this time. Similarly, while noting the recent uplift in permissions, completions and the Housing Delivery Test action plan, these are either not serving to reduce the deficit and/or may take time to come to fruition. These factors do not alter the pressing need that exists for market and affordable housing across the borough.

Planning Obligation

79. As noted above, a S106 Agreement was agreed between the Council and appellant after the close of the Inquiry. This took account of discussions which took place on a without prejudice basis during the Inquiry itself.
80. The agreement contains obligations requiring 25% on-site affordable housing, contributions toward public transport services, habitats mitigation, highway works, public open space and the Great Lines Heritage Park, libraries, healthcare, primary and secondary education, public rights of way, the Upnor Castle visitor centre, waste and recycling services and youth facilities. There are also obligations relating to the provision of odour mitigation measures on the adjacent wastewater treatment site.
81. I am satisfied that the S106 meets the requirements of Regulation 122 of the Community Infrastructure Regulations and relevant advice in the Framework. The majority of contributions provide mitigation only. However, where there would be direct or indirect benefits associated with the agreement, I consider them below.

Benefits of Development

82. The development would provide 72 dwellings, including 18 affordable homes. This would provide obvious social and economic benefits for the area. Although not significant in terms of the overall deficit, the delivery of market and affordable dwellings nevertheless represents tangible benefits to which I must give substantial weight.
83. I have had regard to the affordability evidence provided by the appellant and recognise the importance of delivering affordable housing. However, the provision of 25% affordable housing is policy compliant and thus provides no more than would be expected by any development in the borough. Moreover, while welcome, 18 dwellings would not have a significant impact on the overall need for affordable housing. This factor carries no more than substantial weight in the balance.

84. The housing would bring associated economic benefits in terms of support for local services and facilities, including tourism in relation to Upnor Castle and its facilities. There would also be temporary jobs from construction. The nursery would create new permanent jobs that would be of benefit to the local economy. The evidence suggests there is a general need for this type of facility in the area. This carries social benefits. Other economic issues include the benefit of New Homes Bonus and the support for a Small or Medium Enterprise (SME). I give moderate weight to these factors. However, additional Council Tax is not a benefit as it is effectively a mitigation for the increase in population. I have given no weight to this in my decision.
85. The development would facilitate some improvements to the PROW network and pedestrian environment. This might provide some benefits for people living outside the development, both in terms of highway safety and recreation. Still, I get no sense that if these improvements were not made, then it would have a particularly negative effect on the living conditions of existing residents. Similarly, it is unlikely that all residents on Castle Street, or those in the Upnors, would detour to make use of the new path and footway through the development, as it would not be a direct route and would add to the length of any journey. These benefits therefore carry only limited weight in favour of the development.
86. Provision of new open space would primarily be of benefit to future occupants and is necessary to create a satisfactory living environment. While these spaces would be available for the existing occupants of Castle Street, they would effectively be areas of amenity space between dwellings and thus of limited recreational use for others. I have also noted the appellant's comments about layout and COVID-19, but I do not see this as being of any particular benefit, as it is merely a factor of good design which is to be expected. I therefore have given these factors only limited weight.
87. Similarly, the provision of additional bus stops and contributions to public transport services are welcomed and may again provide some benefits for nearby residents. However, these measures are largely mitigation for the relative paucity of existing provision and the delivery of housing in a countryside location. The Castle Street Community also identified a number of concerns relating to the limitations of bus services which are unlikely to be fully resolved by S106 funding. Accordingly, I give only limited weight to any public transport benefits.
88. The development would provide limited benefits in relation to the widening of Upnor Road. However, these would be subsumed to an extent by the additional activity along the lane. There is also no strong evidence that the existing characteristics of the road or levels of activity have led to accidents. As such, this also carries limited weight in favour of the development.
89. I acknowledge the intention for the development to include high levels of energy efficiency and provision of electric vehicle charging points for all dwellings. While this might exceed building regulations, these features are becoming more commonplace and merit only limited weight as a clear benefit of the development. Moreover, the likely reliance on the car for most journeys would temper any sustainability benefits in this regard.
90. Benefits associated with biodiversity net gain and landscaping again stem from the need to mitigate the impact of development. There is an expectation that

development will provide biodiversity net gain, but the intention would be to provide a 34% gain, which exceeds the basic assumption of 10%. However, given the current site consists of arable fields and mature hedgerow, there is no pressing imperative for these gains. Thus, I have given this factor only limited weight.

Planning Balance and Conclusion

91. I have found conflict with policies S1, BNE25, BNE34, T1 and T2 of the MLP. The weight that should be given to these policies was another area of significant disagreement between the parties. Several appeal decisions were put to me where Inspectors have come to different conclusions.
92. Policy S1 seeks to guide development to urban areas and resist development 'on fresh land'. The policy is based on an out-of-date housing requirement and thus reflects a strategy that is not based on any recent assessment of housing need. The Council has also had to grant permission on 'fresh land' in other areas to help meet the housing need. While I acknowledge that the broad aim of directing growth to the most sustainable and accessible locations has a degree of consistency with the Framework, there is no moratorium in national policy on development outside defined settlements or on greenfield land. Accordingly, I have given only limited weight to the conflict with Policy S1.
93. Importantly, while Inspectors have given various weight to Policy BNE25 in the decisions put to me, none considers it should carry full weight. As with S1, the policy is linked to settlement boundaries that reflect out-of-date housing requirements. The requirements also effectively create a blanket restriction on development in the countryside.
94. Nonetheless, the policy does refer to maintaining or enhancing the character, amenity and functioning of the countryside. This is consistent with paragraph 174b of the Framework and the need to recognise the intrinsic character and beauty of the countryside. The policy also refers to development offering a realistic chance of access by a range of transport modes. This is broadly consistent with paragraph 105 of the Framework. I found harm in relation to both factors. This is significant in relation to the effect on character and appearance. It is less so in terms of accessibility, where I recognise that there are some opportunities for access by alternative modes of travel and trip distances need not be long to reach services, facilities and employment. Due to all these factors, I have given only limited weight to conflict with this policy. My conclusions on policies S1 and BNE25 are consistent with the Inspector's findings in the recent Pump House Inquiry referred to above.
95. Policy BNE34 seeks to protect specific areas for their local landscape value. The purpose of this policy is not to resist development in the countryside. Rather, it is to protect valued landscapes. Moreover, criterion ii. allows for a balancing exercise to be carried out. This does not preclude residential development within ALLIs when circumstances allow for it. This policy does not therefore constitute a blanket restriction and is consistent with criteria a. and b. of paragraph 174 of the Framework. These identify the need to protect valued landscapes and recognise the intrinsic beauty of the countryside.
96. Again, different Inspectors have come to different conclusions about the weight to be given to this policy. However, based on the evidence put to me, I see no clear reason why Policy BNE34 should not continue to carry the full weight of

the development plan. My conclusion is consistent with the view taken by my colleagues in the Pump House and Orchard Kennels⁵ appeals.

97. I have found that there would be substantial harm to the landscape character and function of the Hogmarsh Valley ALLI. While this might be at the lower end of any perceived hierarchy of 'valued landscapes', the Framework is still clear that such areas should be protected or enhanced. Paragraph 174b also requires the intrinsic beauty of the countryside to be recognised.
98. I acknowledge that the provision of market and affordable housing is a significant benefit of development. Nevertheless, the harm caused to a valued landscape would be significant and permanent. In terms of Policy BNE34, I therefore find that the economic and social benefits of development would not outweigh the priority of conserving the area's landscape character and function. The development would therefore conflict with both limbs of Policy BNE34, which seek to ensure development does not result in unacceptable harm to designated ALLIs. I have given significant weight to this conflict.
99. The appellant sought to argue that I should perhaps give less weight to the 'value' of the ALLI as the eLP does not currently include a similar policy or designation. The eLP has not been subject to 'Regulation 19' consultation or submitted to the SoS. On this basis, the eLP carries little to no weight and has no bearing on the weight given to the ALLI designation or the value of the landscape.
100. The weight to be given to policies T1 and T2 was not discussed in any detail in the Inquiry. I am however able to come to my own view. Although the wording is different, I consider it uncontroversial to conclude that these policies broadly reflect paragraphs 110 and 111 of the Framework. There are aspects of Policy T1 which do not reflect current national policy. For example, the policy seeks to ensure the highway network has adequate capacity to cater for traffic generated. This differs to paragraph 111 which states that permission should only be refused where there would be severe impacts on the road network. As my concerns relate primarily to potential safety issues, this does not alter my view that conflict with these policies should carry substantial weight.
101. Having regard to all of the above, I am satisfied that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of the development when considered against the Framework as a whole. The development does not therefore benefit from the so-called 'tilted balance' as set out in paragraph 11d of the Framework. In coming to this conclusion, I have of course had regard to the very significant and urgent need for housing development in the borough. Nevertheless, the Framework is also very clear in its intentions regarding the quality of the built environment and protection of valued landscapes.
102. Even if I am wrong about the effects of the development on highway safety, this would not alter my decision. The harm caused to landscape character and function would still be sufficient for me to conclude that the 'tilted balance' would not apply in this case.

⁵ Appeal reference: APP/A2280/W/19/3240339

103. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise. The development conflicts with the plan when considered as a whole. There are no material considerations which lead me to a decision other than in accordance with the development plan in this case.

Conclusion

104. For the reasons given above I conclude that the appeal should be dismissed.

S J Lee

INSPECTOR

Appearances

FOR THE LOCAL PLANNING AUTHORITY:

Robert Williams, of Counsel, instructed by the Solicitor to the Council

He called:

Jon Etchells MA, BPhil, CMLI Director of Jon Etchells Consulting Limited

Peter Canavan BA(Hons), MSc, Associate Partner at Carter Jonas LLP
MRTPI

Oliver Neagle assisted the Council in the discussions of S106 and proposed conditions

FOR THE APPELLANT:

Rupert Warren QC of Counsel, instructed by Gunner Cooke

He called:

Matthew Chard BA(Hons), Dip Partner, Planning and Design Group, Barton
(Hons) MAUD CMLI Wilmore LLP

Andrew Wilford BA(Hons), MA, Head of Land and Planning, Esquire
MRPTI Developments Ltd

Claire Saffer assisted the appellant in the discussions of the S106 and proposed conditions

FOR THE RULE 6 PARTY – CASTLE STREET COMMUNITY:

Mr Stuart Sharp Castle Street Community

INTERESTED PERSONS:

Councillor Thorpe Ward Councillor

Angela King Local Resident

Ian Robinson Local Resident

Jeannie Steele Local Resident

Sarah Bright Local Resident

Appendix 1

Core Documents

CD1 Appeal Documents

- CD1/1 Appeal submitted to the Planning Inspectorate, 01 June 2021 – excluding application documents in Core Document List
- CD1/2 LPA Appeal Questionnaire, including supporting document, relevant development plan policies, neighbourhood responses and comments from statutory consultees
- CD1/3 Appellant’s Statement of Case, dated 01 June 2021
- CD1/4 LPA’s Statement of Case July 2021
- CD1/5 Statement of Common Ground, dated 26 August 2021
- CD1/6 S106 with Medway Council
- CD1/7 Proof of Evidence – Appellant Landscape
- CD1/8 Proof of Evidence – Council Landscape
- CD1/9 Proof of Evidence – Appellant Planning
- CD1/10 Proof of Evidence – Council Planning
- CD1/11 Landscape Statement of Common Ground
- CD1/12 Schedule of Agreed Conditions
- CD1/13 Highway Statement of Common Ground
- CD1/14 Castle Street Community Statement of Case
- CD1/15 Castle Street Community Proof of Evidence

CD2 Planning Application Documents

Original Submission

- CD2/1 Cover letter dated 19 June 2020
- CD2/2 Original Planning Application Form
- CD2/3 Ownership Certificates
- CD2/4 Design and Access Statement prepared by Clague Architects
- CD2/5 Planning Statement prepared by Esquire Developments
- CD2/6 Statement of Community Involvement prepared by Maxim PR
- CD2/7 Landscape and Visual Impact Assessment prepared by Barton Willmore Landscape
- CD2/8 Landscape Strategy prepared by HW & Co
- CD2/9 Ecology Appraisal prepared Aspect Ecology

CD2/10	Transport Statement prepared by DHA Transport	
CD2/11	Flood Risk Assessment and drainage Report prepared Amazi Consulting and Infrastructure Design Ltd	
CD2/12	Odour Constraints Assessment Report prepared by Wood Environmental	
CD2/13	Built Heritage Statement prepared by RPS Heritage	
CD2/14	Desk Based Archaeology Report prepared SWAT Archaeology	
CD2/15	Phase 1 Desk Study and Phase 2 Investigation prepared by Leap Environmental	
CD2/16	Site Location Plan	29414A 01
CD2/17	Existing Site Block Plan	29414A 02
CD2/18	Existing Site Sections Sheet 1	29414A 03
CD2/19	Existing Site Sections Sheet 2	29414A 04
CD2/20	Proposed Site Plan	29414A 10
CD2/21	Proposed Site Plan Coloured	29414A 11
CD2/22	Proposed Parking Strategy Plan	29414A 12
CD2/23	Proposed Fire and Access Plan	29414A 13
CD2/24	Proposed Refuse Strategy	29414A 14
CD2/25	Proposed Site Mix	29414A 15
CD2/26	House Type Drawing - Plots 1, 2, 3, 4 & 5	29414A 30
CD2/27	House Type Drawing - Plots 6, 7 & 8	29414A 31
CD2/28	House Type Drawing - Plots 9, 10, 11, 12, 13 & 14	29414A 32
CD2/29	House Type Drawing - Plots 15 & 16	29414A 33
CD2/30	House Type Drawing - Plots 17 & 18	29414A 34
CD2/31	House Type Drawing - Plots 19, 20, 21 & 22	29414A 35
CD2/32	House Type Drawing - Plots 23, 27, 28, 29 & 65	29414A 36
CD2/33	House Type Drawing - Plots 24 & 30	29414A 37

CD2/34	House Type Drawing - Plots 25, 26, 69 & 70	29414A 38
CD2/35	House Type Drawing - Plots 31 & 32	29414A 39
CD2/36	House Type Drawing - Plots 33 & 52	29414A 40
CD2/37	House Type Drawing - Plots 34, 35, 49 & 50	29414A 41
CD2/38	House Type Drawing - Plots 51 & 55	29414A 42
CD2/39	House Type Drawing - Plots 36, 37, 60, 61, 71 & 72	29414A 43
CD2/40	House Type Drawing - Plots 53 & 54	29414A 44
CD2/41	House Type Drawing - Plots 56 & 57	29414A 45
CD2/42	House Type Drawing - Plots 59 & 64	29414A 46
CD2/43	House Type Drawing - Plot 58	29414A 47
CD2/44	House Type Drawing - Plot 75	29414A 48
CD2/45	House Type Drawing - Plots 62, 63, 73 & 74	29414A 49
CD2/46	House Type Drawing - Plots 66,67 & 68	29414A 50
CD2/47	House Type Drawing - Plots 38, 39, 40, 41, 42, 43 & 44	29414A 51
CD2/48	House Type Drawing - Plots 45, 46, 47 & 48	29414A 52
CD2/49	Garages and Car Ports	29414A 53
CD2/50	Proposed Street Scenes Sheet 1	29414A 60
CD2/51	Proposed Street Scenes Sheet 2	29414A 61
CD2/52	Bird's-Eye View	LN-LP-09 Rev C

Documents

CD2/53	E-mail to Medway 10 August 2020 enclosing Phase II Ecology Survey Results and Net Biodiversity Calculation
CD2/54	E-mail to Medway dated 08 September enclosing Dormice Survey Results

- CD2/55 Email to Medway Council dated 11 September enclosing Landscape Technical Note
- CD2/56 Landscape Technical Note by BW Landscape
- CD2/57 Email to Medway Council dated 29 October 2020 enclosing planning balance, comparison table and landscape design response
- CD2/58 Landscape Comparison Table
- CD2/59 MC Landscape and Design response
- CD2/60 E-mail to KCC and Medway dated 02 November 2020 enclosing Palaeolithic Report Findings
- CD2/61 Palaeolithic Report
- CD2/62 Updated Road Safety Audit Nov 2020
- CD2/63 Cover Letter dated 04 December 2020
- CD2/64 Arboricultural Report
- CD2/65 Landscape Strategy Version 12
- CD2/66 Updated Landscape and Visual Appraisal
- CD2/67 Support letter from The Montessori Group
- CD2/68 Light Specification re. Public Right of Way
- CD2/69 Email to Medway Council confirming drawings to be determined

Drawings for Determination

- | | | |
|--------|---|-----------------|
| CD2/70 | Site Location Plan | 29414A 01 |
| CD2/71 | Existing Site Block Plan | 29414A 02 |
| CD2/72 | Existing Site Sections Sheet 1 | 29414A 03 |
| CD2/73 | Existing Site Sections Sheet 2 | 29414A 04 |
| CD2/74 | Proposed Site Plan | 29414A 10 Rev A |
| CD2/75 | Proposed Site Plan Coloured | 29414A 11 Rev A |
| CD2/76 | Proposed Parking Strategy Plan | 29414A 12 Rev A |
| CD2/77 | Proposed Fire and Access Plan | 29414A 13 Rev A |
| CD2/78 | Proposed Refuse Strategy | 29414A 14 Rev A |
| CD2/79 | Proposed Site Mix | 29414A 15 Rev A |
| CD2/80 | House Type Drawing – Plots 1, 2, 3, 4 & 5 | 29414A 30 |
| CD2/81 | House Type Drawing – Plots 6, 7 & 8 | 29414A 31 |

CD2/82	House Type Drawing – Plots 9, 10, 11, 12, 13 & 14	29414A 32
CD2/83	House Type Drawing – Plots 15 & 16	29414A 33
CD2/84	House Type Drawing – Plots 17 & 18	29414A 34
CD2/85	House Type Drawing – Plots 19, 20, 21 & 22	29414A 35
CD2/86	House Type Drawing – Plots 23, 27, 28, 29 & 62	29414A 36 Rev B
CD2/87	House Type Drawing – Plots 24 & 30	29414A 37
CD2/88	House Type Drawing – Plots 25, 26, 66 & 67	29414A 38 Rev A
CD2/89	House Type Drawing – Plots 31 & 32	29414A 39
CD2/90	House Type Drawing – Plots 33 & 51	29414A 40 Rev A
CD2/91	House Type Drawing – Plots 34, 35, 49 & 50	29414A 41 Rev A
CD2/92	House Type Drawing – Plots 50 & 54	29414A 42 Rev A
CD2/93	House Type Drawing – Plots 36, 37, 68 & 69	29414A 43 Rev B
CD2/94	House Type Drawing – Plots 52 & 53	29414A 44 Rev A
CD2/95	House Type Drawing – Plots 55 & 56	29414A 45 Rev A
CD2/96	House Type Drawing – Plots 61	29414A 46 Rev A
CD2/97	House Type Drawing – Plot 58	29414A 47 Rev A
CD2/98	House Type Drawing – Plot 72	29414A 48 Rev A
CD2/99	House Type Drawing – Plots 59, 60, 70 & 71	29414A 49 Rev B
CD2/100	House Type Drawing – Plots 63, 64 & 65	29414A 50 Rev A
CD2/101	House Type Drawing – Plots 38, 39, 40, 41, 42, 43	29414A 51 Rev A
CD2/102	House Type Drawing – Plots 44, 45, 46 & 47	29414A 52 Rev A

CD2/103	Garages and Car Ports	29414A 53
CD2/104	Nursery Elevations and Floor Plans	29414A 54
CD2/105	Proposed Street Scenes Sheet 1	29414A 60
CD2/106	Proposed Street Scenes Sheet 2	29414A 61
CD2/107	Bird's-Eye View	LN-LP-09 Rev C
CD2/108	Site Access	H08 Rev P8

CD3 Medway Council Documents and Decision Notice

CD3/1	Officers Delegated Report
CD3/2	Medway Council Decision Notice dated 26 February 2021
CD3/3	Landscape and Urban Design Consultee Comments to application
CD3/4	Statutory Consultation Responses
CD3/5	Email from Medway to Appellant dated 06 December 2019

CD4 National Planning Policies and Guidance

CD4/1	National Planning Policy Framework February 2021
CD4/2	National Planning Practice Guidance (extracts) <ul style="list-style-type: none">• Housing and Economic Needs Assessment• Housing Supply and Delivery• Natural Environment
CD4/3	Building Better, Building Beautiful Commission Report, January 2020
CD4/4	National Design Guide
CD4/5	All Party Parliamentary Group for SME House Builders : Report On Ways To Improve The Planning System In The UK 2020
CD4/6	Guidelines for Landscape and Visual Impact Assessment (GVLIA) 3rd Edition – digital resource only

CD5 Medway Council Local Planning Policies Guidance and Regional Documents

CD5/1	Medway Local Plan Saved Policies (2003)
CD5/2	Medway Council Local Plan Proposals Map
CD5/3	Local Plan Development Consultation Strategy 2018
CD5/4	Hoo Peninsula Consultation Document
CD5/5	Hoo: New Routes to good growth

- CD5/6 Developer Contributions & Obligations SPD (May 2018) – Updated April 2021
- CD5/7 Medway Council Annual Monitoring Report – Dec 2020
- CD5/8 Housing Delivery Test 2020
- CD5/9 Medway Council Delivery Test Action Plan August 2021
- CD5/10 Medway Council SHLAA Assessments 2015 and 2019
- CD5/11 Strategic Assessment Management and Mitigation Medway Council Interim Policy Statement
- CD5/12 Medway Housing Design Standards (Interim)
- CD5/13 Medway Landscape Character Assessment 2011
- CD5/14 A Building Height Policy for Medway 2006
- CD5/15 Kent Landscape Character Assessment 2004
- CD5/16 Kent Design Guide
- CD5/17 Medway Council Strategic Housing Market Assessment 2015
- CD5/18 Medway Housing Strategy 2018 - 2022
- CD6 Relevant Appeal Decisions/Judgments**
- CD6/1 Appeal Decision - Land at Gibraltar Farm App. Ref APP/A2280/W/16/3143600 dated 6 March 2017
- CD6/2 Land at Station Road, Rainham App Ref. APP/A2280/W/15/3002877dated 07 December 2015
- CD6/3 Land to the North of Brompton Farm Road App Ref : APP/A2280/W/18/3214163 dated 13 June 2019
- CD6/4 Land at Orchard Kennels, Rainham App Ref: APP/A2280/W/19/3240339 dated 30 July 2020
- CD6/5 Land at Town Road, Cliffe Woods App Ref APP/A2280/W/17/3175461dated 8 November 2018 (subsequently quashed)
- CD6/6 Oxtan Farm v Harrogate Borough Council v D Noble Limited [2020] EWCA Civ 805
- CD6/7 Secretary of State for Communities and Local Government v Hopkins Homes Ltd [2016] EWCA Civ 168
- CD6/8 Gladman Developments Ltd v Daventry District Council & Anor [2016] EWCA Civ 1146
- CD6/9 Kings Lynn and West Norfolk v Secretary of State for Communities and Local Government [2015] EWHC 2464
- CD6/10 Gladman Developments Limited v SSHCLG [2021] EWCA Civ 104

CD7 Other

- CD7/1 Manor Farm Committee Report Application Ref MC/21/0302
- CD7/2 The Bacon Review – August 2021
- CD7/3 Manor Farm Application Ref MC/21/0302 LVIA
- CD7/4 Updated Arboricultural Method Statement – September 2021

Documents submitted at the Inquiry

- ID1 Site Layout Plan with annotations
- ID2 Appellant Opening Statement
- ID3 LPA Opening Statement
- ID4 Castle Street Community Opening Statement
- ID5 Frindsbury Extra Parish Council Statement
- ID6 Ian Robinson Statement
- ID7 Guidance on Transport Assessment – submitted by Castle Street Community
- ID8 Relevant pages from Public reports pack 07.10.2021 – Medway Local Plan – submitted by the Council
- ID9.1 Appendix 1 (Pre-submission Plan (Draft) and 2 (Pre-submission Proposals Maps (Draft)) – submitted by the Council
- ID9.2 Appendix 1 (Pre-submission Plan (Draft) and 2 (Pre-submission Proposals Maps (Draft)) – submitted by the Council
- ID10 Publication of Medway Local Plan Report and LDS – submitted by the Council
- ID11 Housing Infrastructure Fund New Routes to Good Growth
- ID12 Acquisition of Land Interests – Housing Infrastructure Fund New Routes to Good Growth – submitted by the Council
- ID13 Revised Site Location Plan 29414A 01 Rev B – submitted by the appellant
- ID14 Hoo Landscape Capacity and Sensitivity Study (Draft) – submitted by the Council
- ID15 Appellant Response to Landscape Sensitivity Capacity Study
- ID16 Medway Council (Mr Etchells) notes on Hoo Landscape Sensitivity and Capacity Study FINAL
- ID17 Upnor Rd Regulation 122 Document - 7Oct 2021 – submitted by the Council

- ID18 2021-10-15 - FINAL DRAFT Upnor conditions
- ID19 Medway Local Plan Update - Press Statement – submitted by the Council
- ID20 Note from Dave Harris on Local Plan timetable – submitted by the Council
- ID21 Closing Statement of Stuart Sharp on behalf of the Castle Street Community
- ID22 Upnor Road Closings - Medway Council - Final
- ID23 Esquire Upnor Closing Submissions Appellant 25.10.21