

STATEMENT OF CASE

**LAND AT UPNOR ROAD,
UPPER UPNOR,
MEDWAY**

**Full Application for
72 Residential Dwellings and Children's Nursery**

**Prepared By
Esquire Developments**

June 2021



ESQUIRE

DEVELOPMENTS

TOWN AND COUNTRY PLANNING ACT 1990

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015

TOWN AND COUNTRY PLANNING (INQUIRIES PROCEDURE) (ENGLAND) RULES 2000

**APPEAL BY ESQUIRE DEVELOPMENTS FOR FULL APPLICATION FOR 72 RESIDENTIAL DWELLINGS AND
CHILDREN'S NURSERY**

LAND AT UPNOR ROAD, UPPER UPNOR

STATEMENT OF CASE

**PREPARED BY
ESQUIRE DEVELOPMENTS**

MC REF: MC/20/1478



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1.0 INTRODUCTION

1.1 This Statement of Case (SoC) has been prepared by Esquire Developments (the Appellant) to set out the main points of case in support of a proposed development at Land at Upnor Road, Upper Upnor, Medway (the Appeal Site).

1.2 The SoC supports an Appeal against Medway Council's (MC) decision to refuse a full planning application for the following development:

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.

1.3 The application (Ref MC/20/1478) was refused by delegated authority on 26 February 2021, for a single reason for refusal, considered at Section 3 of this Statement.

1.4 The evidence to be submitted will explain how the proposals are justified having regard to the National Planning Policy Framework (NPPF) (CD4/1) and the "presumption in favour of sustainable development" (para 11). This justification will refer to the relevant planning context both at Local and National levels, technical evidence submitted in support of the planning application and other relevant technical guidance and advice. Evidence will demonstrate that the Appeal proposals are sustainable development and in the case of any conflicts with policy, the benefits of the proposed development significantly and materially outweigh any adverse impacts.

1.5 It will be demonstrated that there are significant economic, social and environmental benefits that would arise from the proposed development, and that there are no unacceptable adverse impacts that cannot be mitigated and/or outweighed in this case. It will also be demonstrated that the benefits of the Appeal proposals, coupled with the high-quality design delivered by a local Small and Medium Enterprise developer (SME), accords with the principles of sustainable development. It will be concluded that the development of the Appeal Site is fully justified, and that planning permission should be granted in accordance with paragraph 11(d) of the Framework.

1.6 The Appellant reserves the right to add to the matters contained in this Statement of Case and to the list of Draft Core Documents.

2.0 PROCEDURAL MATTERS

i) Appeal Procedure

2.1 A Public Inquiry Procedure has been requested due to the complex issues arising from the reason for refusal and the degree of local representations and interest. The Appellant considers that the matters of dispute require thorough examination and should be tested through proofs of evidence and cross examination.

2.2 This Statement of Case has been formulated based on a Public Inquiry procedure with Proofs of Evidence to follow in accordance with the agreed timetable. The Appellant reserves its right to add to this Statement of Case, in the event an alternative appeal procedure is deemed appropriate by the Planning Inspectorate.

ii) Continued Working with the Local Planning Authority

2.3 At the time the Application was determined, there was no prospect of resolving the area of dispute with MC, as set out in the Reason for Refusal. However, discussions will continue with MC to reduce areas of dispute wherever possible through the agreement of the Statement of Common Ground (SoCG).

iii) Statement of Common Ground (SoCG) & Section S106

2.4 In accordance with the “Procedural Guide, Planning Appeals – England, November 2020” the Appeal submission is accompanied by a Draft SoCG. This provides full details of the Appeal Site, Planning History and the Application submission. These matters are not repeated within this SoC.

2.5 The SoCG will continue to be drafted and agreed at the earliest possible convenience. An up-to-date draft of the SoCG at the time of the submission of the Appeal is enclosed in **Appendix A**.

iv) Core Document List

2.6 A Draft Core Document List is attached at **Appendix B** and an electronic copy of these documents is provided with the Appeal submission.

2.7 The Appellant reserves the right to refer to other documents not listed at **Appendix B** which are relevant to the Appellant’s Case. The Core Document schedule will be finalised after the exchange of the relevant parties’ submission of Evidence.

v) Relevant Planning Policies

- 2.8 There are a number of planning policies relevant to the determination of the Appeal. These are contained within the draft SoCG (Appendix A). It is the intention that the weight to be applied to these policies by the Appellant and the Council will be set out in a concise document identifying the most relevant policies, if they are considered up to date and what weight is to be attached by both parties.
- 2.9 The Appellant reserves the right to refer to other policies not listed, particularly those published after the date of this Statement and are relevant to the Appellant's Case.

3.0 THE CASE FOR THE APPELLANT

3.1 The following section sets out the case for the Appellant and addresses the single Reason for Refusal (RfR) and other material considerations.

3.2 The Evidence to be submitted to the Inquiry will explain how the proposals are justified having regard to the Framework's "presumption in favour of sustainable development" (para 11).

3.3 At the time of writing the SoC, a consultation on amendments to the NPPF and National Model Design Code was being undertaken. The following references to Framework may therefore subsequently change or be added to through the course of the Appeal to reflect the most up-to-date version of the Framework.

i) Reason for Refusal 1: Impact on Landscape

The proposal would establish development and reinforce the presence of built form in open space that crosses to the east slopes of the Hogmarsh Valley, whilst also introducing another new feature in the form of a building and a stack of approx. 6m high as mitigation measures to address the odour arising from the nearby wastewater treatment works. The proposals would erode the attractive rural backdrop that currently forms a green buffer separating Frindsbury, Wainscott and Upper Upnor contributing to the threat of coalescence between Upper Upnor and the urban areas, devaluing a currently rural image and as well as weakening the currently attractive setting for a major gateway within the borough – the A289. Overall, it is considered that the impact of this proposal is an intrusion into the countryside which results in harm to the character, appearance and function of this important landscape area that would significantly and demonstrably outweigh the benefits of the 72 dwellings and the provision of a children's nursery. The proposal conflicts with Policies BNE25 and BNE34 of the Local Plan and paragraph 170(b) of the NPPF.

3.4 The main policy considerations to be addressed within the RfR are:

The National Planning Policy Framework (NPPF) (February 2019) (CD4/1)

- Paras 8 and 9 (Achieving Sustainable Development);
- Para 11 (Presumption in Favour of Sustainable Development);
- Paras 59, 63, 68 ,73 to 78 (inclusive) (Delivering a Sufficient Supply of Homes);
- Paras 83 and 84 (Building a strong, competitive economy);
- Paras 91, 96, 98 (promoting healthy and safe communities);
- Para 103 (Promoting Sustainable transport);
- Para 118 (Making effective use of land)

- Para 124, 127, 128, 131 (Achieving Well-Designed Places);
- Para 170, 174 (Conserving and Enhancing the Natural Environment).

The National Planning Policy Guidance (PPG) (March 2014 as amended) (CD4/2)

- Housing and Economic Needs Assessment.
- Housing Supply and Delivery.
- Natural Environment.

Medway Council Saved Policies Local Plan, 2003 (CD5/1)

- Policy S1: Development Strategy
- Policy S2: Strategic Principles
- Policy BNE25: Development in the Countryside;
- Policy BNE34: Areas of Local Landscape Importance.

Other Material Documents

- Guidelines for Landscape and Visual Impact Assessment (GLVIA) 3rd Edition **(CD4/7)**
- Medway Landscape Character Assessment 2011 **(CD5/13)**
- Kent Landscape Character Assessment 2004 **(CD5/15)**
- A Building Height Policy for Medway 2006 **(CD5/14)**

ii) Development in the Countryside and Landscape Impact

- 3.5 Evidence will demonstrate that the Council does not have an up-to-date Local Plan and that the emerging Local Plan is not in its advanced stages. Evidence will confirm Medway Council is required to release unallocated greenfield sites in order to meet its Housing and Economic Needs.
- 3.6 The Appeal Scheme provides for a significant number of economic, social and environmental benefits, which weigh heavily in favour of allowing the Appeal Scheme. In the light of an outdated Local Plan, lack of identified sites to meet housing needs and lack of Five-Year Housing Land Supply, development in the designated Countryside is necessary in order to meet current housing needs (addressed later in this section).
- 3.7 Evidence demonstrates that whilst some harm results to the landscape by virtue of change from a greenfield to built form, the proposed development sits comfortably within the surrounding

environment, adjacent to existing residential development and located in a sustainable location. It will be demonstrated that the development of the appeal site will not have a detrimental impact on the overall pattern and experience, or character and appearance, of the area, which is recognised by MC as a mixed rural-urban environment. The juxtaposition of rural and urban features is a defining characteristic of the area which the scheme would respect, without tipping the balance too harmfully towards the urban context.

- 3.8 Part of this conclusion is derived on the basis the design of the Proposed Development is of a very high quality, with excellent architecture reflecting the appellants award-winning SME status. The result will be that although some of the development will be visible in views from outside the site, those glimpsed views will be of well-designed bespoke houses and the childrens nursery, reflecting the site's location and surrounding landscape.
- 3.9 Part of the very high design quality proposed is that the proposed scheme would exceed current and future Carbon Reduction requirements (up to 50%) and Net Biodiversity Gains (at least 34%).
- 3.10 Given those points, the proposals would meet the objectives of the ALLI designation under Local Plan Policy BNE34 **(CD5/1)**, and would go some way to meeting the 'actions' of the Landscape Character Assessment 2011 **(CD5/13)** for the Hogmarsh Valley - to 'create and restore'. This is achieved by new planting and high-quality built form on the Appeal site and with new and enhanced planting in the wider Hogmarsh Valley landscape with off site improvements which are all deliverable by the appellants and landowners.
- 3.11 The net beneficial effect of the scheme partly stems from the fact that the Hogmarsh Valley has a number of existing developments which are not simply urban, but due to poor design standards, actively detract from the character and appearance of the locality of the Appeal site. These include (See **CD2/55** – Site Appraisal Plan Figure 4):
- the Tennis Courts and associated floodlighting and non-native substantial coniferous hedgerow vegetation bounding the northern boundary of the tennis courts;
 - the harsh and utilitarian forms of the Whitewall Creek Wastewater Treatment Works;
 - the existing stark edge of the rear gardens of Castle Street; and
 - the existing road infrastructure of the A289 and Berwick Way.
- 3.12 The proposed development will therefore sit within the urban-rural environment without significantly harming the landscape. Crucially, compared to the rest of the eastern flank of the Hogmarsh Valley, the housing on Castle Street already demonstrates a residential characteristic in this location, whereas the remaining areas of the Hogmarsh Valley are free from such a

concentration of built form. This area of development at Castle Street is the sole location where the edge of settlement populates the upper eastern slopes of the Hogmarsh Valley and due to its design, it is a notable detracting element. While there are no notable detractors within the Site itself, its character is influenced by detracting elements in its immediate context and the Site is appreciated in this degraded context.

- 3.13 Technical work including expanding upon the updated LVIA **(CD2/68)** and Design and Access Statement (DAS) **(CD2/4)**, show that there would be limited harm to landscape character and that the Proposed Development would maintain and reinforce a number of locally distinctive characteristics and not harm visual amenity to any significant degree that outweighs the benefits.
- 3.14 Furthermore, a sense of separation between Upnor (including the Site), and the built-up edge of Strood (Wainscott), owing to the open nature of the intervening landscape and the orientation of the underlying landform will remain. There will be no material sense of coalescence as a result of the appeal proposals.
- 3.15 In terms of detail, the proposed development has incorporated areas of high-quality open space including wetland/marsh reeds, wildflower meadows, tussocky grassland, all in addition to substantial structural semi-native tree and shrub planting. These beneficial additions the landscape would partially offset the loss of open arable farmland. Collectively, these introduced landscape elements will contribute positively to the green infrastructure network and will simultaneously help to soften and enhance the appearance of the introduced built form and create a more sympathetic built-up edge, reflective of the Hogmarsh Landscape Character with its distinctive wooded backdrop. Thus, through the creation of new habitats and the restoration and reinforcement of existing landscape features, the proposed development will enable the Hogmarsh character to permeate through the Site such that the landscape fulfils a transitional function that is sympathetic to its place. In doing so, there will be a clear recognition and celebration of the locality with the Proposed Development helping to relate to, and create, a distinctive sense of place while also reinforcing the distinction between Upnor and Wainscott.
- 3.16 The Appellant and MC have agreed representative visual receptors for the proposal. None would suffer unacceptable adverse effects by the introduction of the Proposed Development within the landscape. Where visible, the Proposed Development will be filtered by intervening vegetation, either on the Site boundary or in the immediate foreground of views, and consequently the Proposed Development will form a modest component of the views.

iii) High Quality Design and SME Status

- 3.17 The Appellant is an award-winning local SME Housebuilder and draws on the Government's recognition of the importance of SMEs in supporting the diversification of the housing market and achieve meeting housing needs and offer genuine choice to the market. Evidence will demonstrate the challenges facing SME developers as identified in the All-Party Parliamentary Group for SME House Builders: Report on Ways to Improve the Planning System in the UK (2020) **(CD4/5)** and how SMEs have been described by Government as being of 'National Importance'.
- 3.18 Evidence will also draw upon the Council's Housing Delivery Test Action Plan (2020) **[CD5/9]** which identifies SMEs and the delivery of Affordable Housing as part of its solution to improve the delivery of Housing in Medway.
- 3.19 This Appeal scheme meets those objective as well as demonstrating that the stewardship initiatives being promoted by the part landowner (the Church Commissioners) is also supporting SMEs in their role as legacy landowners.
- 3.20 The design of the development is of high quality, achieved through the layout, the architectural style and detailing and the use of good quality materials which responds to existing local architecture and character. The bespoke design quality of the development reflects the SME status of the applicant, drawing upon its expertise to deliver good design and fulfils the agenda of building better building beautiful **(CD4/3)**. This is in fact recognised by the Council's own Design Officer in response to the application.
- 3.21 The Design and Access Statement and associated CGI's, which accurately reflect the proposed design demonstrate the high quality materiality and bespoke architectural style. These are not standard housing types (the Appellant does not have standard house types) and the high quality of the scheme is not restricted to only key buildings but permeates throughout the development including the nursery building and affordable houses. This is demonstrated on page 30 of the DAS **(CD2/4)** which shows the proposed buildings at the site entrance which are also proposed to be Affordable dwellings.
- 3.22 As an SME, the Appellant can deliver the site quickly and will draw on evidence of its own delivery rates that demonstrate timely starts on site and dwelling completions. The Appellant does not 'land bank' and can easily deliver the entirety of the scheme within the next 5-yr period with an approximate build programme of 30 months from start on site to final completed dwelling.

Evidence will also be presented of the Appellant delivering successful mixed-use schemes of this nature, including a Children's Nursery within Medway.

- 3.23 Furthermore, the Appellants commitments to addressing Climate Change are a further benefit to the overall design and quality of the development. The Appellants are committed to achieving at least a 50% carbon reduction in its properties, achieved by a combination of techniques, including Air Source Heat Pumps, a fabric first approach and 100% electric vehicle charging points.
- 3.24 The Appellant's SME status and track record in efficient scheme delivery should be considered to be a key, particular benefit of the scheme. This is particularly the case given the context of the Council's poor housing land supply position and lack of an immediate remedy to reverse its significant housing shortfall in the short term, due to the ongoing delay with the Council's emerging Local Plan.

iv) Housing Land Supply Position

- 3.25 The matter of Housing Land Supply is not in dispute and it is agreed that the Council cannot currently demonstrate the required five-year housing land supply. There is a significant undersupply of housing at the time of writing, ranging from 2.51yrs to 3.35yrs. The range reflects the agreed position as of January 2021 for a Public Inquiry taking place at the time of writing this statement at Land off Pump Lane, Lower Rainham (Appeal Ref. APP/A2280/W/20/3259868). An agreed position will be confirmed for the purposes of this Appeal through the SoCG.
- 3.26 Evidence will be demonstrated of the Council's long standing historic failure of delivery and most recently reflected in the Government's Published Housing Delivery Test results 2020 (published, February 2021), which demonstrated the Council failed the test and achieved a figure of only 55% **(CD5/8)**.
- 3.27 The Councils HDT results in the presumption in favour of sustainable development being applied and a 20% buffer required for the purposes of calculating the 5-yr HLS position.
- 3.28 The Councils Housing Delivery Test Action Plan (August 2020) **[CD5/9]** seeks to rely on SME developers to meet current needs and how the delivery of affordable housing can accelerate the delivery of housing.
- 3.29 The 'presumption in favour of sustainable development' applies from both the Housing Land Supply position and Housing Delivery Test results and applications of this nature (i.e. an SME

site delivering Affordable Housing) is recognised by the Council in its Action Plan as being part of the solution to improving delivery.

3.30 We reserve the right to comment further on the Council's 5-year housing land supply should its status change.

v) Affordable Housing Need and Provision of Children's Nursery

3.31 The Council has a significant and substantial Affordable Housing Need requirements. The Council's 2015 Strategic Housing Market Assessment (**CD5/17**) identified a need of 744 affordable dwellings per annum and that since then, the ratio of unaffordability has significantly risen as a result of the Council's poor delivery of both market and affordable housing.

3.32 As a result of the persistent under supply, the up-to-date AMR 2020 (**CD5/7**) identifies over the last five years the average cost of buying a home in Medway has risen from £181,881 to £246,550 – an increase of more than 34%. In terms of the affordability ratio, in the last five years Medway's change is more than 4 times the national average as shown in Table 3.1.

Table 3.1: Ratio of Median House Price to Median Earnings

	2015	2016	2017	2018	2019	Ratio Increase 2015-2019
						%
Medway	6.90	7.93	8.28	8.67	8.41	18%
Annual Change	0.60	1.03	0.35	0.39	0.26	-
Kent	8.81	9.53	10.23	10.48	9.88	11%
South East	9.13	9.76	10.25	10.38	10.12	10%
England	7.52	7.72	7.91	8.00	7.83	4%

3.33 There is clearly a pressing need for homes to be delivered in Medway to meet the needs of the area and to address not only affordability ratios but economic growth.

3.34 In 2018/19 there were a total of 181 affordable housing units delivered – 26% of the gross number of housing completions. This is some 563 dwellings short of the SHMA [**CD5/17**] identified annual need.

3.35 The Appeal site meets the Council's adopted policy of 25% Affordable Housing provision, resulting in 18No. Affordable dwellings. This weighs in significant favour of the benefits to the appeal scheme, which will be delivered in an area within Medway that has seen very little in the

way of affordable housing delivery in the past 20 years (i.e. the villages of Upper and Lower Upnor).

- 3.36 The need and potential provider for a Children’s Nursery was identified through the application determination **(CD2/67)**. The Appellant has a successful track record in delivering such uses in Medway and evidence will draw upon the weight to be afforded this benefit which is considered substantial.

vi) Planning Balance

- 3.37 Evidence will be prepared identifying the policies most relevant to determine the appeal, and the degree of weight in which those policies are to be applied. Evidence will set out the planning balance and weigh the degree of conflict with the saved policies of the local plan, with the presumption in favour of sustainable development.

- 3.38 The site is recognised as being in conflict with some parts of the Development Plan, but that the Development Plan is out-of-date due to the absence of a 5-yr supply of land and the Housing Delivery Test. Accordingly, those policies in which the Proposed Development is in conflict with have ‘limited’ weight and that the degree of harm from the development is not so significant and demonstrable to outweigh the benefits.

- 3.39 In summary, the Proposed Development would have considerable benefits in helping address a significant shortfall in the delivery of both market and affordable housing. The Appellant is a local SME and has a strong track record of efficient, high quality and award-winning designs. The appeal scheme would not only deliver much needed new homes in the short term, but these homes would be of high quality and offer an affordable and realistic choice to purchasers.

- 3.40 The evidence will demonstrate the value of a mixed-use scheme to the local area and the additional economic, social and environmental benefits the development brings. Only limited harm would result when assessed against the policies of the Framework, and Evidence will identify that the overall planning balance is overwhelmingly positive.

- 3.41 Evidence will set out the following benefits:

- 1) Provides much needed market housing for local people;
- 2) Provides much needed affordable housing for people struggling to purchase a home;
- 3) Provision of a Children’s Nursery in an area of need and in close proximity to existing employment areas offering childcare choice for working parents and in itself creating new

- jobs (est. 22 direct FTE jobs) and providing a mix of uses on the site that supports the local economy;
- 4) Provides homes in close proximity (within 800m) to schools, shops, pubs, employment areas and bus stops;
 - 5) Provides new Public Rights of Ways that will link and connect the existing footpath network and allow for further routes to enjoy the Hogmarsh Valley;
 - 6) Provides for a new Bus Stop and increased Bus Service to enhance the opportunity to travel by public transport and for commuters to travel to and from work;
 - 7) Will provide for a new passing vehicle point on Upnor Road that will benefit the wider community and improve traffic flow and safety;
 - 8) Will result in the creation of a significant net gain in biodiversity of at least 34% on site, some 24% above the future requirement of 10%.
 - 9) Provision of extensive public open space and landscaping of up to 46% of the site area on a presently private field allowing new viewpoints of the wider Hogmarsh Valley and Rochester.
 - 10) Will introduce Hogmarsh Valley habitat into the site where it is presently sterile and increase the opportunity for natural flora and fauna to create additional habitat;
 - 11) Will provide off-site restoration and creation of the Hogmarsh Valley habitat including screening of detracting features;
 - 12) Will create a high-quality bespoke development that reflects the unique surroundings of the Hogmarsh Valley and Upnor;
 - 13) Is at a low density that will create an attractive setting and complement the existing village through its architecture and sense of place;
 - 14) Will create a softer edge to the Hogmarsh Valley and create a more appropriate transition in this peri-urban location than the present stark edge that presently exists;
 - 15) Will create a development that responds positively to climate change and exceeds current building regulations requirements by removing any gas boilers and using Air Source Heat Pumps. Alongside a fabric first approach this reduce CO2 emissions by up at least 50%;
 - 16) Will deliver electric vehicle charging points on all dwellings and encourage the take up of electric vehicles by residents;
 - 17) Will create a development that is COVID-19 adaptable with spacious plots, properties and gardens that can facilitate home working, home learning including fibre optic broadband and promote well-being;
 - 18) Will be delivered by an SME Housebuilder (recognised as being of National Importance by Government) and aid the delivery of choice and diversity in the market place.
 - 19) Will be delivered expediently and contribute to the delivery of homes early in the 5-yr period;

- 20) Meets the identified criteria by Medway Council to boost the supply of land being on a suitable greenfield site, by a developer that will diversify the market and can deliver expediently without delay;
- 21) Will generate jobs through the construction process;
- 22) Will generate economic activity including the SME supply chain;
- 23) Will support the economy and maximises opportunities to improve its sustainability by foot, cycle and public transport.

3.42 When judged against the policies of the Framework, the proposals fully constitute sustainable development – chiefly because the proposals would strongly support the drive for meeting housing needs, the desire for beautiful schemes, and the benefits in perceptual and judgemental terms to the countryside’s character and ecological richness. No specific policies of the Framework indicate that by contrast the Proposed Development should be restricted for the purposes of paragraph 11(d).

3.43 The presumption in favour of sustainable development applies, and there are no adverse impacts that significantly and demonstrably outweigh the benefits. Notwithstanding a degree of non-compliance with the policies of the adopted development plan, for these reasons, the appeal scheme should be allowed.

4.0 RESPONSE TO CONSULTATION RESPONSES

i) Statutory Consultation Responses

4.1 Notwithstanding the reason for refusal, there are no outstanding technical objections to the proposed development that were not addressed through the submission of further information or cannot be addressed through the use of appropriate Planning Conditions or S106 Obligations.

ii) Non-Statutory Consultee Responses

4.2 A total of 176 consultation responses were received from local residents. Objections were also received from Frinsbury Extra Parish Council and neighbouring High Halstow Parish Council and Hoo Parish Council. Kelly Tolhurst, MP for Rochester and Strood also objected. The comments are summarised in the Delegated Officers report **(CD3/1)** but can be grouped into five general categories.

1. Principle of Development;
2. Impact on existing Infrastructure;
3. Highway Safety and Congestion;
4. Impact on landscape and wildlife; and
5. Flooding.

4.3 The majority of the above matters that do not form part of the Council's RfR have been addressed through the supporting material to the application and by the statutory consultation responses received. These are reflected in the Officers Delegated Report **(CD3/1)**.

4.4 Evidence will be submitted in support of the Appellant's case specifically addressing matters of the principle of development and impact on infrastructure and highways. It will further address the social benefits of the development including demonstrating how it will contribute to creating mixed and balanced communities.

4.5 No technical objections were raised in respect of the development aside from those that form the reason for refusal. Technical matters including drainage, ecology, highways, heritage and archaeology will be addressed through Planning Conditions to be agreed in the SoCG or mitigated through the S106 Agreement.

- 4.6 At this stage, it is not known whether any interested persons will request Rule 6 status for the Appeal. The Appellant therefore reserves the right to refer to any other matters raised by any Rule 6 parties in Evidence or any addendums to it.

5.0 WITNESSES

5.1 Prior to the commencement of the Inquiry, a list of those Expert Witnesses giving evidence on behalf of the Appellant will be provided. However, the Appellant proposes provisionally that evidence will be presented on the matters identified below for the reasons set out:

Landscape Matters: Matthew Chard, Partner - Barton Willmore Landscape

5.2 There are significant differences in judgment between the Appellant's and Council in matters relating to the landscape and visual context and the impact of the Appeal scheme. It is considered that there needs to be a cross-examination of the Evidence (including methodology, not simply matters of a purely subjective nature) to explore these differences of judgement fully.

Planning: Andrew Wilford, Head of Planning - Esquire Developments.

5.3 Planning evidence needs to be presented and tested through cross-examination, where it brings together the Planning Case for the development and undertakes the "planning balance". Issues relating to the weight of existing policy in the light of the Presumption in Favour of Sustainable Development will need to be tested.

5.4 The Appellant reserves the right to review the above matters in the light of the LPA's Statement of Case.

- **Counsel**

5.5 Rupert Warren QC of Landmark Chambers is advocating for the Appellant.

APPENDICES

APPENDIX A

DRAFT STATEMENT OF COMMON GROUND

STATEMENT OF COMMON GROUND
BETWEEN THE APPELLANT AND MEDWAY COUNCIL

APPENDIX 1 – TABLE IDENTIFYING WEIGHT TO POLICIES

APPENDIX 2 – SCHEDULE OF AGREED DOCUMENTS FOR DETERMINATION

APPEAL REFERENCE: **TBC**

LPA APPLICATION REFERENCE: MC/20/1478

DATE OF INQUIRY: **TBC**

SITE ADDRESS AND DESCRIPTION OF THE DEVELOPMENT:

Address: Land at Upnor Road, Upper Upnor, Medway (The Appeal Site).

Description of Development: *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.*

APPELLANT: Esquire Developments Ltd

LOCAL PLANNING AUTHORITY: Medway Council

This Statement of Common Ground addresses the following areas of common ground:

- 1.0 Description of Appeal Site
- 2.0 Planning History of the Appeal Site
- 3.0 Development Plan
- 4.0 Relevance of Supplementary Planning Guidance
- 5.0 Possible Conditions
- 6.0 Draft Terms of any S106 Agreement
- 7.0 Areas of Agreement – General
- 8.0 Areas of Agreement / Disagreement relating to Landscape
- 9.0 Areas of Agreement / Disagreement relating to Planning

1.0 DESCRIPTION OF THE APPEAL SITE

- 1.1 The Site is located south of Upnor Road, Upper Upnor and adjacent to an existing residential development of Castle Street. The site is approximately 5.1ha in size and is irregular in shape and comprises two arable fields (separated by a centrally located ditch) presently used for agriculture.
- 1.2 Hedgerow vegetation defines the western and northern boundaries of the Site, while dense mature woodland defines the southern boundary. Existing residential dwellings on Castle Street and their associated rear boundary vegetation and boundary treatments define the north eastern extent of the Site.
- 1.3 There is currently an informal ungated access used by agricultural vehicles in the north west corner. The site slopes from east to west from 13.10m to 3.17m AOD in the northern part and 13.5m to 4.25m AOD in the southern part. The rear gardens of Castle Street are slightly elevated. A number of existing sewers run through the site leading to the nearby Whitewall Creek Sewage Treatment plant located 50m to the sites south-western boundary.
- 1.4 The site predominantly lies in Flood Zone 1 with a small area on the western lower part of the site being located in Flood Zones 2 and 3. The site lies within the Hogmarsh Valley which is an area of local landscape importance.
- 1.5 The Site is not located within or adjoined by a National Park or Area of Outstanding Natural Beauty (AONB). There are no areas of ancient woodland within the Site (the closest area is Cookham Wood located approximately 1.4km to the north-east). The adjoining woodland to the south and east of the site is located within an area of a Special Scientific Interest (SSSI).
- 1.6 There are a number of nearby Public Rights of Way, namely;
- Public Right of Way (PRoW) RS122 is located to the south and south-west of the Site and passes through Tower Hill, connecting Castle Street with (PRoW) RS121 and Vanguard Way to the south.
 - The Saxon Shore Way/PRoW RS121 lies to the east of the Site and follows the northern bank of the River Medway to the north-east and east before deviating inland towards Frindsbury to the south-west.
 - PRoW RS327 lies to the west of the Site, which connects the Saxon Shore Way and

Vanguard Way with Upnor Road.

- PRow RS125 lies to the north of the Site, which connects Upnor Road with Wainscott Road.
- 1.7 There are several cycle-routes within the surrounding area, including along Berwick Road to the west and along the southern bank of the River Medway to the east.
- 1.8 Upnor Conservation Area is located approximately 125m to the east of the Site at its nearest point. Frindsbury and Manor Farm Conservation Area is located approximately 350m to the west of the Site at its nearest point. The Site is not subject to any Tree Preservation Orders (TPO).
- 1.9 Located immediately beyond the western boundary lies a low area of land that contains the Hogmarsh stream which leads south to the River Medway. Beyond this area lies Upnor Road which leads south to the A289 Berwick Way leading to Strood, Chatham and the M2 or north to Lower Upnor and Upchat Road which leads to Four Elms Hill or Chattenden. Further on lies undulating agricultural land leading to the built-up edge of Strood (Wainscott) and includes Frinsbury Lawn and Tennis Club and Cricket Club and Frog Island Pond, a small local nature reserve.
- 1.10 In addition, the field that lies to the north of Upnor Road, north-west of the Site, often accommodates a car boot sale.
- 1.11 The Medway City Estate, an area of commercial and industrial development, lies approximately 400m to the south-west. The edge of these urban and suburban areas are defined by the A289 (Berwick Way and Medway Tunnel), which is a main road connecting Strood with Rochester to the east (on the opposite side of the River Medway) and Chattenden and Hoo to the north-east.
- 1.12 Dense woodland occupies areas of higher ground to the north and south which is a Site of Special Scientific Interest (SSSI). In addition, the Royal School of Military Engineering is located beyond intervening woodland vegetation to the south-east.
- 1.13 Upnor comprises a number of residential enclaves including Upper Upnor, Lower Upnor and Castle Street. The site lies outside any defined settlement boundary but immediately adjoins Castle Street.
- 1.14 Within Lower Upnor and Upper Upnor there are 4 No Public Houses, Medway Yacht Club, Upnor Sailing Club, Pitmans Wharf and the ordnance yard which includes a number of local businesses. Upnor Castle located on the River Medway near Upper Upnor attracts a significant number of

visitors each year.

- 1.15 The site is situated within close proximity to a number of services and facilities. This includes within 800m (10min walk) of 2 Co-Op shops (Wainscott and Medway City Estate), Wainscott Primary School, McDonalds restaurant and Medway City Estate, Medway's largest employment area. |
- 1.16 The current nearest bus stop is approximately 300m to the east of the site on Upchat Road and served by the 197 bus linking to Strood and Chatham Railway Stations. There are a number of additional bus services accessed from Wainscott and Medway City Estate.

2.0 PLANNING HISTORY OF THE APPEAL SITE

2.1 The site has no relevant planning history.

3.0 DEVELOPMENT PLAN

3.1 It is agreed that the Development Plan comprises:

- 1) Saved Policies from Medway Local Plan 2003 (**CD 5/1**)

3.2 The Medway Local Plan (MLP) (**CD5/1**) was adopted May 2003 with a Plan period of 1996-2006. Reference may be made to the following policies:

- **Policy S1: Development Strategy**
- **Policy S2: Strategic Principles**
- **Policy S4: Landscape and Urban Design**
- **Policy S6: Planning Obligations**
- **Policy BNE1: General Principles for Built Development**
- **Policy BNE2: Amenity Protection**
- **Policy BNE3: Noise Standards**
- **Policy BNE4: Energy Efficiency**
- **Policy BNE5: Lighting**
- **Policy BNE6: Landscape Design**
- **Policy BNE7: Access for All**
- **Policy BNE8: Security and Personal Safety**
- **Policy BNE21: Archaeological Sites**
- **Policy BNE23: Contaminated Land**
- **Policy BNE24: Air Quality**
- **Policy BNE25: Development in the Countryside**
- **Policy BNE34: Areas of Local Landscape Importance**
- **Policy BNE35: International and national conservation sites**
- **Policy BNE37: Wildlife Habitats**
- **Policy BNE38: Wildlife Corridors and Stepping Stones**
- **Policy BNE39: Protected Species**
- **Policy BNE42: Hedgerow Retention**
- **Policy BNE43: Trees and Development Sites**
- **Policy H3: Affordable Housing**
- **Policy H10: Housing Mix**
- **Policy H11: Residential Development in Rural Settlements**
- **Policy L4: Provision of Open Space**
- **Policy L10: Public Rights of Way**

- **Policy T1: Impact of Development**
- **Policy T2: Access to the Highway**
- **Policy T3: Provision for Pedestrians**
- **Policy T4: Cycle Facilities**
- **Policy T6: Provision for Public Transport**
- **Policy T11: Development Funded Transport Improvements**
- **Policy T12: Traffic Management**
- **Policy T13: Vehicle Parking Standards**
- **Policy T14: Travel Plans**
- **Policy CF12: Water Supply**

Emerging Plan

- 3.3 The Council has published a Local Plan Regulation 18 Consultation Strategy document in 2018 **(CD5/3)**.
- 3.4 A regulation 19 Local Plan consultation is anticipated to take place in Summer/Autumn 2021.
- 3.5 The relevance and weight to be attached to the above documents and policies therein is set out in **Appendix A** of this SoCG which sets out the parties respective positions. The planning judgements of each will be considered in Evidence.
- 3.6 There is no Neighbourhood Plan being proposed for the Parish of Frindsbury Extra in which the site sits.

4.0 RELEVANCE OF ANY SUPPLEMENTARY PLANNING GUIDANCE PUBLISHED BY THE LPA

4.1 Relevant Supplementary Planning Documents:

- Developer Contributions & Obligations SPD (May 2018) **(CD5/6)**

4.2 In addition, the following documents have been published by MC which are relevant:

- Medway Landscape Character Assessment (2011) **(CD5/13)**
- Annual Monitoring Report (Dec 2020) **(CD5/7)**
- Housing Delivery Test Action Plan (August 2020) **(CD5/9)**

5.0 POSSIBLE CONDITIONS AND THE REASONS FOR THEM

5.1 The following schedule comprises the agreed set of Conditions 7

Tbc

6.0 DRAFT TERMS OF ANY S106 OBLIGATIONS

6.1 The Heads of Terms are.

- a) 25% of all housing to be provided as affordable housing.
- b) Financial contributions as follows:
 - i) £12,124.80 towards improvements to facilities and equipment to libraries within the vicinity.
 - ii) £3,960 toward improvements to PRow at Saxon Shore Way and other PRowS in immediate vicinity
 - iii) £150,000 Bus Services
 - iv) £75,000 highways improvements
 - v) £5,430.48 to support youth provision and programme delivery in the Strood and Peninsula area
 - vi) £12,704.40 For the provision, improvement and promotion of waste and recycling including:
 - Waste containment for the development (waste and street litter bins)
 - Maintenance & improvement of local bring centres (HWRC's & bring sites) to cover the developments impact
 - Waste education & promotion (The development, local schools & events)
 - vii) £20,900.16 towards enhancements to the visitor centre at Upnor Castle
 - viii) £109,827.97 toward enhancement of open space facilities and the Great Lines Heritage Park.
 - ix) £457,808.943 toward mitigating the impact of the additional pupils produced. Expansion of one or more of Chattenden, Hundred of Hoo, St Nicholas Infants, Strood Academy.

- Nursery - £95,613.44
 - Primary - £234,686.36
 - Secondary - £127,508.63
- x) £46,424.88 to support the foundation and development of the Peninsula locality Primary Care Network including the supporting infrastructure, IT, training and equipment;
- xi) £18,028.08 towards Designated Habitats Mitigation.
- xii) £xx towards Odour Mitigation at Whitewall Creek WWTW

6.2 Other non-financial obligations include

1. The provision of the new footpath connections with adequate surfacing and lighting
2. The provision of two bus stops; one as a pole and flag and one with a shelter
3. The mitigation measures at the waste water treatment works as set out in the Odour Constraints Assessment (should an appeal be sought against the refusal of planning permission).
4. The widening of Upnor Road to provide passing locations for vehicles.

6.3 A completed S106 Agreement will be submitted in accordance with the appeals procedures.

7.0 AREAS OF AGREEMENT – GENERAL

7.1 The following confirms areas that are not in dispute between the parties and the referenced technical reports are considered to satisfy National and Local Planning policy requirements together with relevant technical guidance informing their preparation. Where necessary appropriate planning conditions are proposed which are set out under Section 6 of this Statement.

i) Housing Land Supply – as at April 2021

7.2 The housing land supply ranges from **2.24yrs to 2.91yrs** based on the Council’s latest published AMR (December 2020) **(CD5/7)** and dependent on when the deficit is accounted for and over what period that deficit is recovered in.

Table 8.1: Housing Land Supply

	Based on deficit since 2014 onwards and Sedgfield approach	Based on deficit 2018 onwards and Sedgfield approach	Based on deficit 2018 onwards and Liverpool approach
Planned Requirement 2020/21 – 2024/25	8,415	8,415	8,415
Deficit since 2014/15	3,231	-	-
Deficit since 2018/19	-	1,769	1,769
Sub total	11,646	10,184	
Additional 20% buffer to be rectified in 5yr period.	2,329	2,036	-
Additional 20% buffer to be rectified over remaining life of plan period (17 yrs).	-	-	598
Total Required In period 2020/21 – 2024/25	13,975 (2,795dpa)	12,220 (2,444dpa)	10,782 (2,156dpa)
Supply¹ (Section 7 AMR Vol 2)	6,274	6,274	6,274

¹ No analysis of the Supply has been undertaken.

Actual Deficit	7,701 dwellings	5,964 dwellings	4,508 dwellings
HLS Position	2.24yrs	2.56yrs	2.91yrs

- 7.3 Medway’s most recent Housing Delivery Test 2020 **(CD5/8)** confirms that in the last 3 years, Medway has achieved a delivery of 55% against its required target.
- 7.4 Since 2014/15, there has been a shortfall of 3,231 dwellings. Since 2018/19, the shortfall is 1,769 dwellings and reflected in table 8.2 below.

Table 8.2: Housing Completions in Medway

Year	Completions	Planned Requirement	Difference
2014/15	483	1,000	-517
2015/16	553	1,000	-447
2016/17	642	1,000	-358
2017/18	680	1,000	-320
2018/19	647	1,683	-1,036
2019/20	1,130	1,683	-553
Total 2014/15 – 2019/20	4,135	7,366	-3,231

- 7.5 The Council’s 2015 Strategic Housing Market Assessment **(CD5/17)** identified a need of 744 affordable dwellings per annum and that since then, the ratio of unaffordability has significantly risen as a result of the Councils poor delivery of both market and affordable housing. In 2018/19 there were a total of 181 affordable housing units delivered – 26% of the gross number of housing completions. It was some 563 dwellings short of the SHMA identified annual need.

ii) Presumption in Favour of Sustainable Development

- 7.6 It is agreed the site is not subject to any NPPF Footnote 6 exemptions as required by NPPF Para 11d) i.
- 7.7 It is agreed the Presumption in Favour of Sustainable Development (the tilted balance) is engaged from the Housing Land Supply Position.
- 7.8 It is agreed the Presumption in Favour of Sustainable Development (the titled balance) is also engaged from the Housing Delivery Test Results.

iii) Residential Development

7.9 It is agreed the proposed mix of open market and affordable homes is appropriate.

Table 8.3: Proposed Housing Mix

	Market	Affordable	Total
1-bed maisonette	0	4	4
2-bed house	7	6	13
3-bed house	36	6	42
4-bed house	8	2	10
5-bed house	3	0	3
Total	54	18	72

7.10 It is agreed the proposed density at 14.1dph (gross) is appropriate.

iv) Children's Nursey

7.11 It is agreed that there is a need and business case for the children's nursery.

7.12 It is agreed the location, scale and siting of the nursery is acceptable.

v) Design and Layout

7.13 It is agreed that the heights of the proposed residential dwellings would be two storeys in height and appropriate for this location.

7.14 It is agreed the style of the development is of a farmstead type aesthetic, such that some dwellings appear as farmhouses whilst others appear as outbuildings and/or converted farm buildings which reflects pre-application feedback.

7.15 It is agreed there would be a mix of detached, semi-detached and terraced properties. All dwellings would have a private amenity area and there is also landscaping proposed to the fronts

7.16 It is agreed that there are no objections in respect of the architecture proposed and the dwellings are well planned with elevations matching the ambition for a farmstead type aesthetic.

7.17 It is agreed the internal impact of the infrastructure (roads, footpaths, surfaces and small-scale landscape edge relationships) is deliberately not over engineered. When combined with the clustering approach that has been used, this assists smaller scale, somewhat rustic, internal placemaking to create an experience within that could correspond with the rural edge nature of

the site.

7.18 It is agreed in design and layout terms the proposed development has been well thought through and would be a high quality development (subject to detailing).

vi) Climate Change and Adaptability

7.19 It is agreed the proposed dwellings will achieve a carbon reduction of 50% and will be secured by way of Condition.

7.20 It is agreed the property sizes, internal arrangements and plot sizes provide for adaptability and flexibility to respond to future multi-functional spaces, including working and learning from home without compromising the amenity of each dwelling or plot.

vii) Landscape and Open Space

7.21 It is agreed the site provides for sufficient open space and exceeds the minimum requirements.

7.22 It is agreed a Locally Equipped Area of Play (LEAP) will be provided on the site and this will take the form of a natural style. This will be secured by way of Condition.

7.23 It is agreed the proposed landscape strategy as set out in Landscape Strategy Version 12 **(CD2/65)**

viii) Highways

7.24 It is agreed that Highways is not a constraint to development, subject to the implementation of the proposed highways works, including:

- Provision of the access as per drawing H08 Rev P8 **(CD2/108)**
- The delivery of new Public Rights of Ways
- The delivery of a new bus stop
- The proposed widening of Upnor Road.

7.25 The submitted Transport Statement **(CD2/10)** and subsequent update in the Covering Letter dated 04 December **(CD2/63)** sets out an appropriate methodology to assess the highways impacts of the Development. It is agreed the impact on the local network is deemed acceptable and would not represent an unacceptable impact on highway safety and would not be a severe impact on the network.

7.26 It is agreed that sufficient parking is provided on site for the residential dwellings and the visitor spaces.

7.27 It is agreed sufficient parking is provided for the Children’s Nursery.

ix) Accessibility

7.28 It is agreed the site is in an accessible location.

7.29 It is agreed there are a number of existing services withing sufficient walking distance and a number of services readily accessible:

Table 8.4: Accessibility Table

<i>Services / Facilities</i>	<i>Distance (straight line)</i>
Frinsbury Lawn Tennis Club	180m
Uponor Cricket Club	190m
Kings Arms Public House Upper Upnor	290m
Existing Bus Stop – Upchat Road/Upnor Junction	300m
Tudor Rose Public House Upper Upnor	350m
Wainscott Primary School to rear access.	600m
Ordnance Yard, Lower Upnor	610m
Smilers Pre-School, Wainscott	680m
Premier Stores	780m
Co-Op Store located in Wainscott	780m
Golden Fish Bar, Wainscott	790m
McDonalds Restaurant	820m
Co-Op Store and Petrol Station Medway City Trading Estate	820m
Medway City Trading Estate (Edge of)	820m
Highparks Medical Centre	990m
Lawsat Pharmacy	990m
Dockside Outlet Centre comprising up to 37 outlets inc. Odeon Cinema, Burger King, The Card Factory, Pizza Hut, Marks and Spencer, Clarkes, Cotton Traders, Holland and Barrett, The Range, Mountain Warehouse.	1000m
Chatham Dockyard	1200m
Strood Railway Station	1900m

Hundred of Hoo Academy	2400m
Asda Superstore	2,400m

7.30 It is agreed that 3 new footway links are to be provided, namely:

- A 1.8m wide footpath to the north west linking to the new bus stop
- A 1.8m footway from the west of the site, linking to Public Footpath RS125 (leading to Wainscott)
- A 1.8m footway south west, leading to Upnor Road and to join Berwick Way, leading to Medway City Estate

7.31 It is agreed a new bus stop is to be provided approximately 70m from the site access.

x) Heritage and Archaeology

7.32 It is agreed Heritage and Archaeology are not a constraint to development.

7.33 A Desk Based Heritage Assessment (**CD2/13**) was submitted in support of the application. It is agreed the report adequately assessed the heritage assets, including the significance of 6 Listed Buildings.

7.34 It is agreed the development has no impact on the significance of the listed buildings or conservation areas, with their significance, or special architectural and historic interest, preserved.

7.35 A Desk Based Archaeology Assessment (**CD2/14**) was submitted with the report. Following a request for additional information from KCC Archaeology on the Palaeolithic era, an additional Report was submitted (**CD2/61**) following trial trenching confirming limited potential.

7.36 It is agreed the archaeological potential for the site has been sufficiently investigated and with a condition requiring a watching brief to be attached to any forthcoming planning permission.

xi) Flood and Drainage

7.37 It is agreed Flood Risk and Drainage is not a constraint to development. A Flood Risk Assessment and Drainage Strategy (**CD2/11**) was submitted in support of the application.

7.38 It is agreed that the majority of the site lies in Flood Zone 1, with parts of the site in flood zones

2 and 3.

- 7.39 It is agreed the sequential approach has been undertaken to ensure all buildings are located fully in flood zone 1.
- 7.40 It is agreed some gardens lie in flood zone 2 and 3 and that boundary treatment in these locations will remain permeable.
- 7.41 The Lead Local Flood Authority has not objected to the application.
- 7.42 The Environment Agency has not objected to the application.
- 7.43 The Lower Medway internal Drainage Board have identified maintenance works off site which may alleviate localised flooding on Upnor Road.
- 7.44 It is agreed the proposals will not increase the risk of current off site flooding issues.
- 7.45 It is agreed the Drainage Strategy is acceptable and subject to detailed Conditions.

xii) Ecology

- 7.46 It is agreed Ecology is not a constraint to development. The application was supported by an Ecological Impact Assessment (**CD2/9**), together with further reports listed below:
- Phase II Ecology Survey Results (**CD2/53**);
 - Biodiversity Net Gain Calculation (**CD2/53**);
 - Dormice Survey Results (**CD2/54**);
- 7.47 The reports confirm that the Site is not subject to any local or National ecological designations and is of limited ecological importance.
- 7.48 It is agreed that a series of mitigation proposals are required including a wildlife sensitive lighting plan; a Construction and Environmental Management Plan including measures to protect wildlife and habitats from construction impacts; and a habitat enhancement and long-term management plan.
- 7.49 It is agreed the site can achieve a net biodiversity figure of at least 34%, which reflects the on-site calculations and excludes any potential enhancements from the off site habitat creation

proposed in the wider Hogmarsh Valley.

- 7.50 It is agreed the impacts on the adjacent Tower Hill to Cockham Wood SSSI during construction will be minimal. It is agreed the proposed buffer vegetation proposed in the south west corner is appropriate and limit the pressure on the SSSI.
- 7.51 It is agreed the Strategic Access Management and Monitoring Strategy tariff is required and secured through the S106 Agreement.

xiii) *Arboriculture*

- 7.52 It is agreed that there are no TPOs in the Site or immediately adjoining its boundaries. The supporting Arboricultural Impact Assessment (**CD2/64**) confirms there are no Grade A trees on the Site and the trees proposed to be removed are not veteran or of significance.
- 7.53 It is agreed that the long-term retention and management of retained trees can be secured through an appropriately worded planning condition.

ixv) *Contamination*

- 7.54 It is agreed contamination is not a constraint to development. The submitted Phase 1 Desk Study, Site Reconnaissance and Phase 2 Site Investigation Report (**CD2/15**). The recommendations within the report are agreed and can be secured through contamination and remediation conditions.
- 7.55 The Council's Environmental Health officer raised no objections to the development on contamination grounds.
- 7.56 The parties are in agreement that the Appeal proposals, subject to appropriate planning conditions, are not likely to be unacceptably impacted by contamination and there is no dispute between the parties in this regard.

xv) *Odour*

- 7.57 The application was supported by an Odour Constraint Assessment (**CD2/12**). It is agreed odour is not a constraint to development subject to mitigation. It is agreed that odour concentrations should not exceed 3 O_Ue m⁻³ in areas where proposed residential dwellings are located.

7.58 It is agreed that the proposed mitigation measures can be secured within the S106 Agreement and result in a reduction in odour concentration to 3 OUe m⁻³ or less. The proposed mitigation would comply with Policy BNE2(ii) of the Local Plan and paragraph 170(e).

7.59 The Council's Environmental Health officer raised no objections to the development on odour grounds

xvi) Agricultural Land

7.60 It is agreed the site does not does not constitute land that is of the best agricultural quality and does not conflict with the NPPF.

xvii) Air Quality

7.61 It is agreed there is no impact on an Air Quality Management Area and that a condition seek to secure an Air Quality Emission Mitigation Assessment and Statement is prepared for the site.

7.62 The Council's Environmental Health officer raised no objections to the development on Air Quality grounds

xviii) Noise

7.63 It is agreed there is no significant impact on the proposed development form local noise sources and that any mitigation can be secured by Condition.

7.64 The Council's Environmental Health officer raised no objections to the development on contamination grounds

8.0 AREAS OF AGREEMENT OR DISAGREEMENT RELATING TO LANDSCAPE IMPACT

Areas of Agreement		
	Appellant	MC
1.		
2.		
Areas of Disagreement		
1.		
2.		
3.		

9.0 AREAS OF AGREEMENT OR DISAGREEMENT RELATING TO PLANNING

Areas of Agreement	
1.	HLS
2.	Most Relevant Policies
3.	The identified benefits
4.	The identified harms
5.	...
Areas of Disagreement	
1.	The weight to attach to the most relevant policies
2.	The overall planning balance

Signed:

.....

On behalf of the Appellant

.....

Date

Signed:

.....

On behalf of the Council

.....

Date

APPENDIX 1

Weight to be attached to the most relevant Policies

APPENDIX 2
SCHEDULE OF DOCUMENTS FOR DETERMINATION

APPENDIX 2

SCHEDULE OF DOCUMENTS FOR DETERMINATION

Documents		
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	
CD2/53	Phase II Ecology Survey Results and Biodiversity Net Gain Assessment	
CD2/54	Dormice Survey Results	
CD2/61	Palaeolithic Report	
CD2/62	updated Road Safety Audit	
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	
Drawings		
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

APPENDIX B

DRAFT CORE DOCUMENTS LIST

LAND AT UPNOR ROAD, UPNOR, MEDWAY
CORE DOCUMENTS SCHEDULE
APPEAL REF: TBC

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 March 2021
CD1/4	LPA's Statement of Case dated tbc
CD1/5	Statement of Common Ground, dated tbc
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

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/Plans Supplied Post Submission		
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 Consultee Comments to application
CD3/4	Statutory Consultation Responses

CD4 National Planning Policies and Guidance

CD4/1	National Planning Policy Framework February 2019
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
CD4/7	Guidelines for Landscape and Visual Impact Assessment (GVLIA) 3rd Edition – digital resource only

CD5 Medway Council Local Planning Policies Guidance (extracts where appropriate) 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 2020
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

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/15/3002877 dated 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/17/3175461 dated 8 November 2018 (subsequently quashed)

CD7 Other

CD7/1	
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June 2021