

## REPORT SUMMARY

<b>REFERENCE NO - 14/0174</b>			
<b>APPLICATION PROPOSAL</b> Outline application for the erection of 8 houses with access to be considered at this stage and all other matters reserved for future consideration.			
<b>ADDRESS</b> Land East of Glebe Gardens, Old Ashford Road, Lenham, Kent			
<b>RECOMMENDATION</b> APPROVE with conditions.			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> Councillor Sams called the application in before Planning Committee for the reasons set out in the report. The recommendation is contrary to the views of Lenham Parish Council.			
<b>WARD</b> Harrietsham And Lenham Ward	<b>PARISH/TOWN COUNCIL</b> Lenham	<b>APPLICANT</b> C/O Sibley Pares Chartered Surveyors <b>AGENT</b> Sibley Pares And Partners	
<b>DECISION DUE DATE</b> 31/03/14	<b>PUBLICITY EXPIRY DATE</b> 31/03/14	<b>OFFICER SITE VISIT DATE</b> Various	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
None			

## MAIN REPORT

### 1.0 DESCRIPTION OF SITE

- 1.01 The site amounts to 0.49ha of formerly cultivated land, situated on the eastern edge of Lenham village south of Old Ashford Road at the eastern end of Glebe Gardens, a modern residential cul-de-sac from where access to the site would be gained. It is approximately 300m east of Lenham Village square.
- 1.02 The site is bordered to the south and east by agricultural land, the residential houses of Glebe Gardens to the west and the village pond to the north which is fed by a chalk stream and drains into a stream, on its eastern side. To the south east is Tanyard Farm which forms a group of agricultural buildings.
- 1.03 To the north of Old Ashford Road is an area of Special Landscape Character and beyond to the north is the AONB.
- 1.04 The site is relatively flat, mainly covered in a light scrub and surrounded by trees.

### 2.0 PROPOSAL

- 2.01 The site forms part of the emerging strategic housing allocations set out in Policies SP8 and H1 (43) of the submission version of the Maidstone Borough Draft Local Plan (Regulation 19) 2016 for a maximum of 10 dwellings. The policy requires the line of trees along the southern and eastern boundaries to be enhanced to protect the setting of the Grade II listed Tanyard Farmhouse together with pond

enhancement and improvements to footpath KH399 that runs adjacent to the southern boundary of the site connecting St Mary's Church to Tanyard Farm.

- 2.02 This outline application seeks consideration of access only with all other matters reserved. The proposal involves the provision of 8 x 2 storey houses in total to include 6 x 4 bed semi-detached houses and 2 x 5 bed detached houses. The indicative layout shows that the siting of the houses would continue the pattern of development along Glebe Gardens incorporating the siting of a 5 bed house at the end cul-de-sac to provide a focal point.
- 2.03 The indicative design of the houses (not being considered in this application) would reflect the character of the village and local area incorporating a mixed pallet of materials which would include brick, clay tiles and weatherboarding and block pavements to the road surface.
- 2.03 Access to the site would be gained from the eastern end of Glebe Gardens between nos. 17 and 18 Glebe Gardens.
- 2.04 A range of landscape initiatives and biodiversity mitigation measures are proposed and are described within this report including native tree and hedgerow planting and translocation of Great Crested Newts to the adjoining land during the construction period.
- 2.04 The pond and some surrounding amenity land was to be gifted to Lenham Parish Council by way of a Unilateral Undertaking to be completed after a resolution of planning approval and following the enhancement works to the pond and amenity area to include the following:
- Creation of new wetland and habitat enhancement.
  - Clearance, dredging and extension of pond with refurbishment of sluice.
  - Planting programmes and screening.
- 2.05 However, the Parish Council are now objecting to the principle of the development. In any event, the gift of the pond and surrounding amenity land to the Parish Council is immaterial and not necessary to the outcome of the application and does not form an intrinsic part of the application assessment.

### **3.0 POLICY AND OTHER CONSIDERATIONS**

- 3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990, requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 3.2 The National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)  
Development Plan: ENV6, ENV28, ENV34, ENV41, T13  
Maidstone Borough Council (Submission Version) Draft Local Plan: SS1, SP3, S5, SP8, H1(43), H2, DM1, DM2, DM3, DM6, DM10, DM11, DM12, DM13, DM23, DM24, DM30, ID1.  
Lenham Neighbourhood Plan - Regulation 14 stage:

3.3 The Maidstone Borough Local Plan will provide a framework for development until 2031. It plans for homes, jobs, shopping, leisure and the environment, and will plan infrastructure to support these. The Local Plan is emerging and its policies are material to the consideration of this application and as the plan has reached submission stage to the Secretary of State, the plan is afforded significant weight.

3.4 Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires that decision makers pay special regard to the desirability of preserving listed structures potentially affected by the scheme or their settings or any features of special architectural or historic interest that they may possess. Such special regard has been paid in the assessment of this planning application.

#### 4.0 LOCAL REPRESENTATIONS

4.01 **Lenham Parish Council** – Objection and support.

4.02 Representation of support received 26 September 2014 stating that the Parish Council wish to see the application approved and pond and amenity land transferred to the Parish Council as agreed with the applicant.

4.03 Objection letter dated 2 March 2016 summarised as follows:

- Site is of great importance for Lenham adjacent to Glebe Pond and the 'Upper Stour'. Very high amenity value for both visitors and residents.
- Site subject to groundwater flooding within a wetland area.
- SUDS mitigates only against flooding from surface water not ground water where water may rise up through floors.
- Glebe pond is the source of the River Stour where the development would detract from this landmark.
- The function of wetland will be lost and cannot be mitigated.
- Retaining land to the east cannot mitigate for the loss of land in volume.
- Proposal does not 'recognise the wider benefits of the ecosystem services.'
- Adverse impact on biodiversity displacing wildlife and protected species.
- Development would make a 'positive contribution to local character and distinctiveness.

4.04 **Neighbours/Interested Parties:** The Council posted site notices, advertised a press notice and wrote to surrounding neighbours of the site. Neighbours were re-consulted when material amendments to the proposed development were received by the Council.

In total, 16 objections were received from 14 households in response to the consultation exercises and are summarised as follows:

- Site not suitable for housing development due to groundwater flooding and close to spring.
- Site is a bog in the winter months.
- Archaeological survey and trenching should be carried out prior to commencement.
- Special place for invertebrates, vertebrates, flora and fauna and has potential for much more if cared for as a wildlife sanctuary.
- Adverse impact on wildlife which will destroy 90% of the local species.
- Unique important historic environment which should be preserved.

- Ecology report is inaccurate.
- Loss of village amenity space.
- Proposal sacrifices most of the complex habitat for the species including great crested newts, frogs, bats, kingfishers and grass snakes.
- species and at the same
- Threatens pollution of the chalk stream.
- Adverse visual impact.
- Would be a blot on the landscape.
- Not a brownfield site and located outside village boundary.
- Development will set an inappropriate precedent for future unsympathetic expansion of the village.
- Adversely affect the open nature of the approach to the village from the A20.
- The positioning of existing driveways, existing fencing and proposed new road will result in a hazardous highway layout.
- Loss of privacy.
- Insufficient parking spaces proposed which would result in additional parking outside of the site.
- Great crested newt survey is inaccurate.

4.05 **Councillor Sams:** Objection raised summarised as follows:

- Development would impinge dramatically on pond and land associated with the pond due to its over intensive use of the site, affecting the viability of the area for protection and conservation.
- There would be great environmental impact locally and wider on the Upper Stour and on biodiversity including wetlands.
- The Glebe pond and its environment are of significant importance to the village.

## 5.0 CONSULTATIONS

5.01 **MBC Arboricultural Officer:** No objection subject to conditions.

5.02 **MBC Heritage Officer:** Insufficient information submitted to address the archaeological and landscape heritage significance. A Landscape Heritage Statement and a revised Archaeological Evaluation Excavation report has since been submitted and address the outstanding issues appropriately.

5.03 **KCC Flood Risk/SUDS:** No objection subject to conditions. The revised drainage strategy is acceptable in principle.

5.04 **KCC Ecology:** No objection subject to conditions.

5.05 **KCC Archaeology:** No objection subject to a condition.

5.06 **KCC Highways:** No objection subject to conditions.

5.07 **Environment Agency:** Assessed as having a low environmental risk. No comments to make.

5.08 **Kent Wildlife Trust:** Concern raised regarding lack of funding set aside by the applicant for the on-going management of the pond and wetland areas and lack of an appropriate Management Plan and mitigation for the loss of habitat.

5.09 **CPRE Kent:** Objection raised summarised as follows:

- Damage to geological conservation interest (and potential tourism asset);
- Possible impacts on the water environment of the Upper Great Stour;
- Removal of wetland which in itself is important for the ecology of the Upper Great Stour;
- Reducing wetland habitat which cannot be mitigated by a small area of wetland which might be managed for wildlife;
- Existing groundwater flooding which cannot be mitigated against by SUDS;
- The historic relevance of the site in creating a 'sense of place' and the connected amenity aspect for Lenham;
- The failing of this planning application in recognising the historic importance of the site and its relationship to other historic assets in the area.
- Unsustainable development.

5.10 **Southern Water:** No objection subject to a condition.

5.11 **UK Power Networks:** No objection.

5.12 **Southern Gas Networks:** No objection

## 6.0 **BACKGROUND PAPERS AND PLANS**

Ecology Phase 1 Habitat Survey January 2014

Archaeological Evaluation Excavation June 2015

Tree Survey January 2014

Planning Statement January 2014

Great Crested Newt Survey & Mitigation Report – Issue 1 December 2014

Landscape Heritage Statement March 2016

2048/13/B/4 – Location Plan

2048/13/B/6B – Proposed site layout plan

2048/13/B/5 – Restoration of Pond & Adjacent Habitats

2048/13/B/7B – Landscape Strategy

2048/13/B/8 – Site plan existing

2048/15/B/1A – Drainage Strategy

## 7.0 **APPRAISAL**

7.01 The main planning considerations relevant in the determination of this application are:

- The acceptability of the principle of development.
- Visual Impact of the development on the landscape.
- Impact of the development on biodiversity.
- Impact of the development on heritage assets.
- Impact on flooding and drainage.
- Impact of the development on living conditions at neighbouring properties.

### Principle of Development

- 7.02 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that all planning applications must be determined in accordance with the Development Plan unless other material considerations indicate otherwise. In this case the Development Plan comprises the Maidstone Borough-Wide Local Plan 2000, and as such the starting point for consideration of the proposal is policy ENV28 which relates to development within the open countryside. The policy states that:

*“In the countryside planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers, and development will be confined to:*

- (1) that which is reasonably necessary for the purposes of agriculture and forestry; or*
- (2) the winning of minerals; or*
- (3) open air recreation and ancillary buildings providing operational uses only; or*
- (4) the provision of public or institutional uses for which a rural location is justified; or*
- (5) such other exceptions as indicated by policies elsewhere in this plan.”*

- 7.03 None of the exceptions against the general policy of restraint apply, and therefore the proposal represents a departure from the Development Plan. It then falls to be considered firstly whether there are any material considerations which indicate that a decision not in accordance with the Development Plan is justified in the circumstances of this case.

- 7.04 In this case the Submission Version of the Draft Local Plan has advanced and was submitted to the Secretary of State for examination on the 20 May 2016 and examination is expected to follow in September. Policy SP17 of the Draft Local Plan, which relates to development in the countryside and Policy SP8 relating to Lenham Rural Service Centre are relevant together with Policy H1(43) which allocates the site for housing of approximately 10 dwellings. As such, whilst the site is located outside of the settlement boundary within the countryside, given the sites allocation for housing and the small scale nature of the development which would contribute to meeting housing needs on the edge of a growth rural service centre contributing to the delivery of approximately 1500 dwellings in the latter period of the plan, the proposed development would accord with the policies of the Submission Version of the Draft Local Plan which now afford significant weight in the determination of this application.

- 7.05 In terms of other material considerations, the National Planning Policy Framework (NPPF) is a key consideration, particularly with regard to housing land supply. Paragraph 47 of the NPPF states that Councils should;

*‘identify and update annually a supply of specific deliverable sites sufficient to provide five years’ worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land;’*

- 7.06 The Council has undertaken a Strategic Housing Market Assessment (SHMA) which was completed in January 2014. This work was commissioned jointly with Ashford and Tonbridge and Malling Borough Councils. A key purpose of the SHMA is to

quantify how many new homes are needed in the borough for the 20 year period of the emerging Local Plan (2011 -31). The SHMA (January 2014) found that there is the objectively assessed need (OAN) for some 19, 600 additional new homes over this period which was agreed by Cabinet in January 2014. Following the publication of updated population projections by the Office of National Statistics in May, the three authorities commissioned an addendum to the SHMA. The outcome of this focused update, dated August 2014, is a refined objectively assessed need figure of 18,600 dwellings. This revised figure was agreed by Cabinet in September 2014. Since that date revised household projection figures have been published by the Government and as a result the SHMA has been re-assessed. At the meeting of the Strategic Planning, Sustainability and Transport Committee on 9 June 2015, Councillors agreed a new OAN figure of 18,560 dwellings.

- 7.07 The Draft Local Plan allocates housing sites considered to be in the most appropriate locations for the Borough to meet the OAN figure and allows the Council to demonstrate a 5 year supply of deliverable housing sites.
- 7.08 The yearly housing land supply monitoring carried out at 1 April 2016 calculated the supply of housing, assessed extant permissions, took account of existing under delivery and the expected delivery of housing. A 5% reduction from current housing supply was applied to account for permissions which expire without implementation. In conformity with the NPPF paragraph 47, a 5% buffer was applied to the OAN. The monitoring demonstrates the council has a 5.12 year supply of housing assessed against the OAN of 18,560 dwellings.
- 7.09 With regard to this case, the application site is located adjacent to the settlement boundary of Lenham which is identified as a Rural Service Centre (RSC) in the Draft Local Plan under draft policy SP8, providing a range of key services including a primary and secondary school, range of local shops, eateries, doctors surgery, village hall to name but some of the amenities/facilities available. The application site is allocated under Policy H1(43) and Policy SP8 of the emerging plan for development of approximately 10 dwellings and sets out the criteria to be met whereby planning permission would be granted. Although the Policy states approximately 10 units should be provided, it is considered that given the layout and constraints of the site, the provision of 8 units is appropriate in this instance. In addition, whilst the red line site boundary does not follow the red line boundary set out in the Draft Local Plan due to the application receipt date being January 2014 prior to the formulation and finalisation of Policy H(43), the application red line boundary has been formed to address the constraints of the site such as retained trees, wetland areas and a swale to the south to address surface water drainage. Land to the east of the site within the H1(43) allocated policy red line but outside the application red line boundary would remain as open amenity space within the applicants ownership and for migration of Great Crested Newts.
- 7.10 Rural Service Centres are considered the most sustainable settlements in Maidstone's settlement hierarchy, as set out in the draft Local Plan, outside of the town centre and urban area. They have been identified as such for their accessibility, potential for growth and role as a service centre for surrounding areas. The draft Local Plan states that "Rural service centres play a key part in the economic and social fabric of the borough and contribute towards its character and built form. They act as a focal point for trade and services by providing a concentration of public transport networks, employment opportunities and community facilities that minimise car journeys".

- 7.11 In this context, it is considered that the principle of the development is, by virtue of national planning policy as set out in the NPPF and local planning policy as set out in the emerging Local Plan which is considered to carry significant weight, acceptable in principle, subject to detailed consideration of whether any adverse impacts of the development would outweigh the benefits of the application in respect of the provision of housing in a sustainable location.

**Visual Impact**

- 7.12 Saved Policy ENV28 of the Maidstone Borough-Wide Local Plan (2000) states that in the countryside, planning permission will not be given for development which harms the character and appearance of the area.
- 7.13 Saved Policy ENV34 of the Maidstone Borough-Wide Local Plan (2000) states that particular attention will be given to the protection and conservation of the scenic quality and distinctive character of the Special Landscape Areas.
- 7.14 Policy SP17 of the Submission Version of the Draft Local Plan sets out the requirements where development in the countryside will be permitted where they do not harm the character and appearance of the area and any impacts can be appropriately mitigated.
- 7.15 Paragraph 17 states that Planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 7.16 Paragraph 56 attaches great importance to the design of the built environment and considers it key to sustainable development. It is indivisible from good planning and should contribute positively towards making places better for people.
- 7.17 Paragraph 58 states that developments should function well and add to the overall quality of an area, establish a strong sense of place, optimise the potential of the site to accommodate development, respond to local character and history, create safe and accessible environments and be visually attractive as a result of good architecture and appropriate landscaping.
- 7.18 Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. The intrinsic character and beauty of the countryside should be recognised.
- 7.19 The Kent Design Guide (2005) (KDG) emphasises that design solutions should be appropriate to context and the character of the locality. Development should reinforce positive design features of an area; include public areas that draw people together and create a sense of place; avoid a wide variety of building styles or mixtures of materials; form a harmonious composition with surrounding buildings or landscape features; and seek to achieve a sustainable pattern and form of development to reduce the need to travel and improve the local context.
- 7.20 As the application seeks outline permission considering access only, the design and layout shown on the submitted plans are indicative only. However, it is considered that the site is capable of accommodating the number, size and bulk of houses shown incorporating a similar pattern of development as that within Glebe Gardens to the west.



- 7.21 To the north side of Old Ashford Road lies an area of Special Landscape Character and immediately beyond that to the north lies the AONB. There are no protected trees or other landscape designations constraining this site. Approximately 7 trees of differing maturity and condition would be removed to facilitate the development, however, this would be subject to a layout and design submitted with the reserved matters application. Only tree 10 within the southern tree belt is to be removed due to its very poor condition and recent branch loss. It is considered that the proposed development would not be highly visible from beyond the immediate site area and boundary frontages and would be appropriately screened by the remaining tree belts to the site boundaries as well as the trees located on the adjoining land to the east and north around the pond. A landscape strategy drawing has been submitted showing locations for hedgerow planting, trees and shrubs around the site incorporating native species.
- 7.22 As such, it is considered that views made from publicly accessible areas and the public footpath to the southern boundary would amount to '*negligible neutral*' due to the encompassing treeline features and proposed landscape mitigation and enhancement measures. Whilst the development would be seen in public views from Old Ashford Road and to a more limited degree from the public footpath to the south, it would mainly be seen in the context of the existing built form of Lenham and Glebe Gardens.
- 7.23 Conditions to ensure the implementation of a suitable landscape strategy are recommended to mitigate any adverse visual impact and to enhance the biodiversity of the site and the setting of the Grade II listed Tanyard Farmhouse to the south east and a condition requiring the submission of a detailed arboricultural method statement (AMS) is also considered to be necessary.
- 7.24 Whilst it is acknowledged that the site has a certain visual amenity value, provides an appropriate rural backdrop and setting to the pond and is regarded as an important community space (albeit in private ownership), it is considered that the site is well contained within the existing mature vegetation from long distance views and landscape mitigation measures to strengthen the boundary vegetation would reduce the perceptibility of the site from public viewpoints. As such it is considered that the landscape visual impact would be low and would accord with Policies ENV6, ENV28 and ENV34 of the Maidstone Local Plan and Policy H1(43) of the emerging Local Plan.

#### **Biodiversity Impact**

- 7.25 The Conservation of Habitat and Species Regulations 2010 (as amended) contain certain prohibitions against activities affecting European Protected Species, such as bats. These include prohibitions against the deliberate capturing, killing or disturbance and against the damage or destruction of a breeding site or resting place of such an animal. The Habitats Directive and Regulations provides for the derogation from these prohibitions in certain circumstances. Natural England is the body primarily responsible for enforcing these prohibitions and is responsible for a separate licensing regime that allows what would otherwise be an unlawful act to be carried out lawfully.
- 7.26 The Council as local planning authority is obliged in considering whether to grant planning permission to have regard to the requirements of the Habitats Directive and Habitats Regulations in so far as they may be affected by the grant of permission. Where the prohibitions in the Regulations will be offended (for example where European Protected Species will be disturbed by the development) then the Council is obliged to consider the likelihood of a licence being subsequently issued by Natural

England and the “three tests” under the Regulations being satisfied. Natural England will grant a licence where the following three tests are met:

- There are “imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment”;
- there is no satisfactory alternative; and
- the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range

7.27 Section 40 of the Natural Environment and Rural Communities Act (2006) states that ‘Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity’. Section 40(3) of the same Act also states that ‘conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat’.

7.28 Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environmental by minimising the impacts on biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are most resilient to current and future pressures.

7.29 Paragraph 118 of the NPPF states that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity, Where development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated or compensated for, then planning permission should be refused. Development proposals where the primary objective is to conserve or enhance biodiversity should be permitted. Opportunities to incorporate biodiversity in and around developments should be encouraged.

7.30 Saved Policy ENV28 of the Maidstone Borough-Wide Local Plan (2000) and Policy SP17 of the Submitted Version of the Draft Local Plan state that proposals should include measures for habitat restoration and creation to ensure that there is no net loss of wildlife resources. Saved Policy ENV41 states that development will not be permitted which would lead to the loss of ponds, or which would harm their visual and wildlife functions.

7.31 The applicants have submitted a Phase 1 Ecology Report identifying the potential ecological constraints on the site which identified potential for roosting and foraging bats within trees, widespread reptiles and breeding birds. The report states that the site is not considered to be suitable habitat for dormice, badgers, reptiles and amphibians and currently has a low ecological value where the surrounding areas proposed for open space and habitat management have a higher ecological value.

7.32 A Great crested newt has been recorded on the site from within the pond area to the north of the site (water body 1). The Habitat Suitability Index assessments of the water bodies within and around the site confirmed that they were suitable for supporting Great Crested Newts. The surveys confirmed the presence of a low population of newts forming a sub population within water bodies 1, 3 and 4.

7.33 There are no records of reptiles on the site, however, there are records of grass snake 0.92km from the site and slow worms 0.58km from the site. These locations are separated from the site by either arable land and the railway or residential properties and a busy road. Reptile habitat preferences are for allotments, compost heaps, south facing banks and rough grassland which are not present on site. The siltation in the pond on site and the significant shading by the tree canopies within and over hanging the pond reduces the ponds' grass snake potential.

7.34 The copse on site comprising of mature trees, with significant ivy cover and broken limbs (target noted on horse chestnut), as well as standing and running water bodies is not large enough for dormice and there are no suitable connections to appropriate large blocks of woodland.

#### Enhancements

7.35 One of the principles of the National Planning Policy Framework is that "opportunities to incorporate biodiversity in and around developments should be encouraged". The proposed enhancements are as follows:

7.36 The ecological value of the pond is to be enhanced through a management plan comprising of the removal of the dominant tree canopy surrounding the pond. The pond is to be dredged in order to remove the silt and create some areas of shallow water around the edges of the pond in order that the pond develops good marginal vegetation and the water levels will naturally control its extent. The marginal planting should be complemented with floating and submerged native plant species.

7.37 Enhancements of the retained wetland areas of tall ruderal and semi-mature woodland would include selective coppicing of ash and willow and planting native tree species such as alder and once established, these trees will be incorporated into the coppice management regime to encourage a mosaic of diverse wetland ground flora. A native species hedgerow would be planted between the pond and the wetland area to shield this area from disturbance which will benefit a range of other wildlife such as breeding birds, bats and invertebrates.

7.38 The retention of dead wood on-site for hibernating reptiles would be supplemented by the creation of log piles made up of logs 1 to 1.5m long, 100 to 200mm diameter and in piles some 1m high and 2m wide, using any wood arising from the site.

7.39 A condition is also recommended that bat roosting features and bird nesting opportunities are incorporated into the proposed development site.

7.40 Whilst much of the biodiversity and landscape enhancements are located outside of the red line site boundary, they are included within the blue line site ownership area which is to be used to accommodate the migration of great crested newts and necessary to mitigate the impacts of the development. The emerging allocation boundary does not include the pond and adjacent land to the north and thus the enhancement to the pond is considered as an added benefit of the scheme but not necessary in order to make the development acceptable.

7.41 It is considered that there is a need to ensure that these enhancement measures will be managed appropriately to benefit biodiversity. As such, a condition is recommended requiring that they should be addressed within the submission of the Landscape and Ecological Management Plan.

Mitigation

- 7.42 A Great Crested Newt survey and mitigation report has been submitted confirming that the development site and surrounding land can support GCN and confirmed the presence of a low population of newts. The County Council Ecologist has been consulted and is satisfied that the applicant has a good understanding of the impact the proposed development will have on GCN.
- 7.42 The mitigation strategy involves the trapping of newts and transporting them to the receptor site located to the north and east of the development site which will be suitably enhanced to accommodate GCN and enclosed with temporary Amphibian Exclusion Fencing creating a sealed trapping area.
- 7.43 The principle and method set out in the mitigation strategy is considered to be acceptable. However, as the survey data is now nearly two years old, it is considered that the detail of the mitigation strategy needs to be reviewed and updated. As such, a condition is recommended requiring an updated mitigation strategy to be submitted prior to commencement of development.
- 7.44 The County Council Ecologist is satisfied that subject to the various measures described in this report being controlled by planning conditions, no unmitigated harm would be caused to local biodiversity, including GCNs, and that opportunities to enhance local biodiversity at the site would be appropriately taken up. As such, this aspect of the development would be acceptable.
- 7.45 Overall it is considered that subject to conditions, the proposed development would have a negligible impact on the wider nature conservation importance of the site, that mitigation measures would enhance and improve the ecological value of the site, increasing biodiversity by improving habitat and increasing foraging potential.

**Heritage Impact**

- 7.46 Sections 66(1) and 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires that decision makers pay special regard to the desirability of preserving heritage assets potentially affected by the scheme or their settings or any features of special architectural or historic interest that they may possess. Such special regard has been paid in the assessment of this planning application.
- 7.47 Paragraph 131 of the NPPF states that in determining planning applications, local planning authorities should take account of:
- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
  - the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
  - the desirability of new development making a positive contribution to local character and distinctiveness.
- 7.48 Paragraph 132 sets out that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II\*

listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.

- 7.49 Paragraph 133 states that where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:
- the nature of the heritage asset prevents all reasonable uses of the site; and
  - no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
  - conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and
  - the harm or loss is outweighed by the benefit of bringing the site back into use.
- 7.50 Paragraph 134 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 7.51 The NPPG states that great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. As the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of the proposal on such assets.
- 7.52 Tanyard Farmhouse (Grade II) lies adjacent to this site and despite its proximity to the centre of Lenham, the farmhouse and farmyard occupy a rural setting which is an important contributory feature to its significance. Development of this land in the manner proposed would extend village development closer, causing some erosion of this rural setting.
- 7.53 There is also an attractive small timber-framed building immediately adjacent to the south eastern corner of the site but its original function is not clear. The main pond on the northern edge of the site, fed by the springs which are the source of the River Stour, appears to have been formed by damming, and the course of the stream to the south where it runs along the side of the farmyard to Tanyard Farm appears to have been artificially straightened. The name of the farm suggests that a Tannery may once have operated here, although if so this use had ceased by the 1870s as the OS map of that date shows the pond as silted up. Tanning required a good water supply, both for soaking the skins initially to clean and soften them up and also for powering bark mills used to grind bark to produce the tannin necessary in the tanning process. A tannery may have taken over a former milling site or may have been purposely sited here from the outset. There is a smaller pond on the south side of the site, which would be built over under the current proposals, which also drains into the stream exiting from the main pond; this pond also appears on the 1870s OS. It's thin, rectangular shape hints at it being a man-made feature, albeit presumably fed by a natural spring.
- 7.54 A Landscape Heritage Statement has been submitted which sets out that the development site has no historic landscape and the pond, mill pond and stream (being the origin of the River Stour) will not be affected by the proposed

development. The pond is to be restored to its 1868 condition so that it does not silt up and the surrounding land will be enhanced as set out above.

- 7.55 The criteria set out in emerging Policy H1(43) housing allocation requires the line of trees along the southern and eastern boundaries of the site to be enhanced in order to protect the setting of the listed farmhouse. The submitted landscape strategy plan shows 2 rows of 2 metre high native hedgerow mix at 0.5 metre centres to be planted to the southern and eastern boundaries to address this criteria.
- 7.56 With regard to archaeological significance, the site has been subject to a phase of pre-determination archaeological evaluation works. The submitted revised details include a copy of the archaeological evaluation which did not reveal extensive or highly significant archaeology but some indications of Iron Age/Romano-British activity were located as well as deposits of possible geo-archaeological and early prehistoric importance. One of the trenches did clarify the presence of a spring on the site, which may have been a focus for prehistoric and later ritual and industrial activity.
- 7.57 The trenching was targeted and limited and indicated there is potential for early prehistoric and later prehistoric and Roman remains on this site. However, there is nothing known at this stage to suggest these remains are likely to be a major constraint on development. The County Council Archaeological officer considers that further evaluation and detailed archaeological and geo-archaeological mitigation is required which can be secured by condition.
- 7.58 As such, on balance it is considered that there are insufficient heritage grounds to justify refusal of this application and the proposed development would amount to less than substantial harm to surrounding Heritage assets and their setting balanced against the benefits of the development in contributing to meeting housing needs within a growth area and the 5 year housing supply. It is recommended that conditions are imposed requiring the submission of full details of materials and landscaping.

#### **Flood Risk and Drainage**

- 7.59 Paragraph 100 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk.
- 7.60 A number of objections received refer to ground water flooding on the site and the presence of a high water table which may have implications for drainage, flooding and finished floor levels.
- 7.61 The site is not located in a flood risk area. KCC flood risk/SUDS officer has been consulted and considers that the submitted revised drainage strategy is acceptable in principle which shows the drainage pond to the south east corner within the boundary and can be adjusted as required by the detailed design.
- 7.62 The Landscape Heritage statement also states that there are small springs in the area which are currently not collected into the main pond. The detailed design of the development layout and drainage strategy will address the collection of the spring water into a cut-off drain and directed to the stream which runs from the pond.
- 7.63 As the application is for outline permission, the groundwater issues would be considered during the detailed design of the development to ensure resilience to this source of flood risk and route any exceedance flows to avoid flooding to property. As

such a condition is recommended requiring the submission of a detailed sustainable surface water drainage scheme prior to commencement of development.

### **Highways**

7.64 Paragraph 32 of the NPPF states that all development which generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Decisions should take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

7.65 The indicative layout shows the 4 bed houses to accommodate 2 tandem parking spaces within a driveway and a single garage and the 5 bed houses to accommodate up to 4 tandem parking spaces within a driveway and double garage.

7.66 KCC Highways have been consulted and raise no objection to the proposal subject to conditions. Where tandem spaces are proposed, additional on-street spaces should be provided in addition to visitor spaces.

### **Residential Amenity**

7.67 The NPPF sets out that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

7.68 Paragraph 123 of the NPPF states that planning decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.

7.69 Saved Policy ENV28 of the Maidstone Borough-Wide Local Plan (2000) states that in the countryside, planning permission will not be given for development which harms the amenities of surrounding occupiers.

7.70 The residential properties most affected by the proposed development would be nos 17 and 18 Glebe Gardens, mainly by the provision of the new vehicular access road between the houses reaching the site. However, the houses are set approximately 6 metres back from the edge of the road which would be sufficient distance to avoid any significant intrusion in the form of noise and disturbance from vehicles passing.

7.71 The indicative layout shows a standard pattern of development continuing the built form of the houses along Glebe Gardens. The distance between the side elevations of the proposed houses sited adjacent to nos.17 and 18 Glebe Gardens would be approximately 15 metres which would be more than sufficient to avoid any overshadowing, overlooking and loss of privacy where first floor side windows would be unacceptable. A 2 metre high hedge is proposed to be planted between the properties to the north west boundary providing a further layer of privacy and separation.

7.72 The impact upon surrounding residential amenity will be very limited due to the proposals sympathetic layout together with the presence of mature trees and

vegetation surrounding the site. Similarly, there would be very little, if any, harm caused by noise and disturbance from the occupation of the development, only from the construction of the development albeit for a temporary period and during working hours.

#### **OTHER MATTERS**

- 7.73 The supporting documentation states that a key feature of this development is that subject to planning approval being granted, the pond and surrounding amenity land would be gifted to the Parish Council for community use in perpetuity and fully managed by the Parish Council after significant enhancement works to the pond, trees, reptile receptor land and water environment have been undertaken by the applicant in compliance with the relevant Grampian conditions recommended.
- 7.74 During the course of the application, in November 2014 the applicants confirmed that Lenham Parish Council would accept the freehold gift of the land, secured through a submitted unilateral S106 undertaking, a draft of which has been submitted for the purpose of facilitating the transfer of ownership on grant of planning consent.
- 7.75 Since then, Lenham Parish Council have objected to the application, for reasons set out above in the Local Representations section of the report. As such, it is considered that as the gift of the land to the Parish Council would not overcome any legitimate planning objection, is not necessary to make the development acceptable, does not form an intrinsic part of the application assessment nor constitutes any enhancement or mitigation function, then the offer of the land as a gift should not form any part of the application and recommendation of this report. If the resolution of the committee is to grant planning permission, then the gift and transfer of the land can be agreed as a private civil transaction which would not conflict with any permission granted as planning permissions and compliance with all conditions and obligations contained therein lie with the land and the land owner.

#### **8.0 CONCLUSION**

- 8.01 The principle of development is considered acceptable due to being an allocated site for housing in the emerging Local Plan and the location of the site adjoining an identified Rural Service Centre in a sustainable location.
- 8.02 Whilst the development would be seen in public views from Old Ashford Road and to a more limited degree from the public footpath to the south, it would be seen in the context of the existing built form of Lenham and Glebe Gardens. Conditions are suggested that will require any detailed scheme to be landscape led in terms of its design and visual and landscape impact, retaining existing site boundaries of mature native hedging and trees. As a result it is considered that the overall visual impact of the proposed development is acceptable in the context set out above.
- 8.03 There would be some harm to the rural setting of Grade II listed Tanyard Farmhouse but, whilst this is an important factor, this harm would be less than substantial in nature. The development would be acceptable in terms of biodiversity, heritage impacts, the impact on neighbours' living conditions, highways and flood risk subject to appropriate planning conditions, which are recommended. In relation to biodiversity, taking into account mitigation measures, it is likely there would be an improvement and enhancement of the ecological value of the site.
- 8.04 Consultation responses and other representations received have been considered in relation to the proposal, and assessed the application in respect of all material



considerations. For this reason it is recommended that planning permission be granted subject to the following conditions.

**9.0 RECOMMENDATION – GRANT** Subject to the following conditions:

CONDITIONS:

- 1) The development shall not commence until approval of the following reserved matters has been obtained in writing from the Local Planning Authority:-

a. Layout b. Scale c. Appearance d. Landscaping

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of one year from the date of this permission.

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved;

Reason: No such details have been submitted and in accordance with the provisions of Section 92 of the Town and Country Planning Act 1990, and in order to encourage the commencement of development and boost the provision of new market supply in accordance with paragraph 47 of the National Planning Policy Framework 2012 and paragraph 027 of the National Planning Policy Guidance 2014.

- 2) The details of reserved matters of layout and appearance submitted pursuant to condition 1 above shall include inter-alia;

- (i) The provision of off-site reptile receptor site with suitable levels of connectivity with the surrounding reptile habitat.
- (iii) Full details of rooflines and roofscapes, streetscenes within the site and sections across the site; and
- (iv) The incorporation of decentralised and renewable or low-carbon sources of energy.

Reason: No such details have been submitted, to ensure a high quality design for the development and to safeguard biodiversity assets.

- 3) Except as set out in these conditions, the development hereby permitted shall not be carried out except in accordance with the approved plans, drawings, reports and supporting documents:

Ecology Phase 1 Habitat Survey January 2014  
Archaeological Evaluation Excavation June 2015  
Tree Survey January 2014  
Planning Statement January 2014  
Great Crested Newt Survey & Mitigation Report – Issue 1 December 2014  
Landscape Heritage Statement March 2016

2048/13/B/4 – Location Plan  
2048/13/B/6B – Proposed site layout plan  
2048/13/B/5 – Restoration of Pond & Adjacent Habitats  
2048/13/B/7B – Landscape Strategy

## Planning Committee Report

2048/13/B/8 – Site plan existing  
2048/15/B/1A – Drainage Strategy

Reason: For the avoidance of doubt and in the interests of proper planning.

- 4) The development shall not commence until details of all fencing, walling and other boundary treatments have been submitted to the Local Planning Authority and approved in writing. The boundary treatments shall not include closeboarded fencing of a height greater than 1.8m, or closeboarded fencing or solid walling of a height of greater than 1m to the boundary of any public space, and shall include the retention and where necessary reinforcement of boundary hedges to the site using appropriate native species as set out in Maidstone Landscape Character Assessment 2012 and Maidstone Landscape Local Character Assessment Supplement 2012, and access through or under site and plot boundaries for small mammals including badgers and hedgehogs shall be provided for by way of the inclusion of post and rail fencing and/or fencing raised a minimum of 20cm above ground level.

The development shall be carried out in accordance with the approved details before the first occupation of the development and maintained thereafter;

Reason: To ensure a satisfactory appearance to the development, secure the amenity of future occupiers,, and safeguard biodiversity assets.

- 5) The development shall not commence until written details and samples of the materials to be used in the construction of the external surfaces, including hard surfaces, of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed using the approved materials unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure a satisfactory appearance to the development and a high quality of design.

- 6) The development shall not commence until there has been submitted to and approved in writing by the Local Planning Authority a Landscaping and Ecological Management Plan to include full details of a landscape and ecological enhancement scheme using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management.

The landscape scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment 2012 and Maidstone Landscape Character Assessment Supplement 2012 (Harrietsham to Lenham Vale landscape type), and shall include, inter alia, the retention of all trees and hedges identified as such in the LaDellWood Tree Survey Report, Issue 1 received 31 January 2014; the retention, repair and enhancement of hedgerows and tree lines to the southern and eastern boundaries; and details of the enhancements to the reptile receptor site prior to translocation with suitable levels of connectivity with the surrounding reptile habitat and enhancements to the pond and wetland areas.

The implementation and long term management plan shall include long term design objectives, management responsibilities and maintenance schedules for all

landscape areas including the pond, surrounding amenity areas and wetland sites other than privately owned, domestic gardens.

The landscaping of the site and its management thereafter shall be carried out in accordance with the approved details for the lifetime of the development.

Reason: To safeguard existing trees and hedges to be retained and ensure a satisfactory external appearance to the development.

- 7) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: To ensure a satisfactory external appearance to the development.

- 8) The development shall not commence until an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) including details of any tree works that would be necessary to implement the proposal, which shall include details of all trees to be retained and the proposed measures of protection, undertaken in accordance with BS 5837:2012 "Trees in relation to design, demolition and construction - Recommendations" has been submitted to and approved in writing by the Local Planning Authority. The AMS shall include full details of areas of hard surfacing within the root protection areas of retained trees which should be of permeable, no-dig construction and full details of foundation design for all buildings within root protection zones, where the AMS identifies that specialist foundations are required. The approved barriers and/or ground protection shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority;

Reason: To safeguard existing trees to be retained, ensure a satisfactory setting and external appearance to the development.

- 9) The development shall not commence until an updated Great Crested Newt Mitigation Strategy is submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

Reason: In the interests of protecting Great Crested Newts in and around the site. These details are required prior to commencement because they are fundamental to the acceptability of the proposal overall.

- 10) The development shall not commence until details of any external lighting to be placed or erected within the site have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include, inter-alia, details of measures to shield and direct light from the light sources so as to prevent light pollution and in order to minimise any impact upon ecology. The development shall be carried out in accordance with the approved details and maintained thereafter.

## Planning Committee Report

Reason: To prevent light pollution in the interests of the character, amenity and biodiversity of the area.

- 11) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of:
  - i) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
  - ii) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure appropriate assessment of the archaeological implications of any development proposals and the subsequent mitigation of adverse impacts through preservation in situ or by record.

- 12) Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based on the strategy (by RCD Consultants Ltd. Dec 2015) and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm) can be accommodated and disposed with no increase to flood risk on or off-site. The detailed design shall also consider the effects of elevated groundwater levels upon the site and incorporate sufficient mitigate measures.

Reason: To reduce the impact of flooding on the proposed development and prevent any impact from the development on surface water storage and flood, and future occupiers.

- 13) No building hereby permitted shall be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
  - i) a timetable for its implementation, and
  - ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason: To reduce the impact of flooding on the proposed development and prevent any impact from the development on surface water storage and flood, and future occupiers.

- 14) No infiltration of surface water drainage into the ground, other than that allowed under the sustainable surface water drainage scheme approved under condition 12 above, is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters;

Reason: To prevent pollution of the environment and protect controlled waters.

## Planning Committee Report

- 15) Prior to occupation of the development, full details of bat roosting features and bird nesting opportunities within the site shall be submitted to and approved in writing by the local planning authority. The work shall be implemented prior to the occupation of the last dwelling and thereafter managed and maintained in accordance with the approved details.
- 16) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: In order to prevent pollution of the environment.

- 17) No development shall take place until details of the proposed slab levels of the buildings and the existing site levels have been submitted to and approved in writing by the Local Planning Authority and the development shall be completed strictly in accordance with the approved levels;

Reason: In order to secure a satisfactory form of development.

### INFORMATIVES

1. The applicant is advised that wheel washing facilities should be provided at the entrance of the site to prevent the transfer of mud on the highway.

Case Officer: Richard Elder

- NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.