

ARCHES CHATHAM NEIGHBOURHOOD PLAN 2022 - 2040

Arches Chatham Neighbourhood Plan Examination
A Report to Medway Council

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1. Summary

- 1 Subject to the recommendations within this Report, made in respect of enabling the Arches Chatham Neighbourhood Plan to meet the basic conditions, I confirm that:
 - having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
 - the making of the neighbourhood plan contributes to the achievement of sustainable development;
 - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
 - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
 - the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.

- 2 Taking the above into account, I find that the Arches Chatham Neighbourhood Plan meets the basic conditions¹ and I recommend to Medway Council that, subject to modifications, it should proceed to Referendum.

¹ It is confirmed in Chapter 3 of this Report that the Arches Chatham Neighbourhood Plan meets the requirements of Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990.

2. Introduction

The Neighbourhood Plan

- 3 This Report provides the findings of the examination into the Arches Chatham Neighbourhood Plan (referred to as the Neighbourhood Plan) prepared by the Arches 'Chatham' Neighbourhood Forum.
- 4 As above, the Report recommends that the Neighbourhood Plan should go forward to a Referendum. At Referendum, should more than 50% of votes be in favour of the Neighbourhood Plan, then the Plan would be formally *made* by Medway Council.
- 5 The Neighbourhood Plan would then form part of the relevant development plan and as such, it would be used to determine planning applications and guide planning decisions in the Arches Chatham Neighbourhood Area.
- 6 Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

"Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood Plans can shape, direct and help to deliver sustainable development."
(Paragraph 29, National Planning Policy Framework)
- 7 As confirmed in Paragraph 2.1 of the Basic Conditions Statement, submitted alongside the Neighbourhood Plan, the Arches 'Chatham' Neighbourhood Forum is the *Qualifying Body*, ultimately responsible for the Neighbourhood Plan.
- 8 Paragraph 2.5 of the Basic Conditions Statement confirms that the Neighbourhood Plan relates to the designated Arches Chatham Neighbourhood Area and that there is no other neighbourhood plan in place in the Arches Chatham Neighbourhood Area.
- 9 The above meets with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2021) and Planning Practice Guidance (2014).

Role of the Independent Examiner

- 10 I was appointed by Medway Council to conduct the examination of the Arches Chatham Neighbourhood Plan and to provide this Report.
- 11 As an Independent Neighbourhood Plan Examiner, I am independent of the Qualifying Body and the relevant Local Authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience.
- 12 I am a chartered town planner and have over ten years' direct experience as an Independent Examiner of Neighbourhood Plans and Orders. I also have over thirty years' land, planning and development experience, gained across the public, private, partnership and community sectors.
- 13 As the Independent Examiner, I must make one of the following recommendations:
 - that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
 - that the Neighbourhood Plan, as modified, should proceed to Referendum;
 - that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.
- 14 If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether the Referendum Area should extend beyond the Arches Chatham Neighbourhood Area to which the Plan relates.
- 15 Where modifications are recommended, they are presented as bullet points and highlighted in **bold print**, with any proposed new wording in *italics*.

Neighbourhood Plan Period

- 16 A neighbourhood plan must specify the period during which it is to have effect.
- 17 The title page of the Neighbourhood Plan refers to the plan period as “2022 – 2040.”
- 18 Taking this into account, the Neighbourhood Plan meets the requirement in respect of specifying the period during which it is to have effect.

Public Hearing

- 19 According to the legislation, it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.
- 20 However, it is also the case that *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.
- 21 Further to consideration of the information submitted, I determined not to hold a public hearing as part of the examination of the Arches Chatham Neighbourhood Plan.
- 22 However, further to consideration of the submission documents, I wrote to the Qualifying Body in respect of matters where further information was sought. At the same time, in line with good practice, the Qualifying Body was provided with an opportunity to respond to representations received during the Submission consultation process.

3. Basic Conditions and Development Plan Status

Basic Conditions

- 23 It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “*basic conditions*.” These were *set out in law*² following the Localism Act 2011.
- 24 Effectively, the basic conditions provide the rock or foundation upon which neighbourhood plans are created. A neighbourhood plan meets the basic conditions if:
- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
 - the making of the neighbourhood plan contributes to the achievement of sustainable development;
 - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
 - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
 - prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.
- 25 Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation and referred to above. Of these, the following basic condition, brought into effect on 28th December 2018, applies to neighbourhood plans:
1. the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations.³

² Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

³ *ibid* (same as above).

- 26 In examining the Plan, I am also required, as set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act) and Sections 61F and 61G of the Town and Country Planning Act 1990 (as amended), to check whether the neighbourhood plan:
- has been prepared and submitted for examination by a qualifying body;
 - has been prepared for an area that has been properly designated for such plan preparation;
 - meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one Neighbourhood Area and that:
 - its policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004.
- 27 An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.⁴
- 28 I note that, in line with legislative requirements, a Basic Conditions Statement was submitted alongside the Neighbourhood Plan. Within this, the Qualifying Body, the Arches 'Chatham' Neighbourhood Forum, provides evidence to demonstrate how the Neighbourhood Plan meets the basic conditions.

⁴ The Human Rights Act 1998 incorporates the rights set out in the European Convention on Human Rights into domestic British law.

European Convention on Human Rights (ECHR) Obligations

- 29 I am satisfied, in the absence of any substantive evidence to the contrary, that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998.
- 30 In the above regard, information has been submitted to demonstrate that people were provided with a range of opportunities to engage with plan-making in different places and at different times. A Consultation Statement was submitted alongside the Neighbourhood Plan and the role of public consultation in the plan-making process is considered later in this Report.

European Union (EU) Obligations

- 31 In some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment. In this regard, national advice states:
- “Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects.”*
(Planning Practice Guidance⁵)
- 32 This process is often referred to as “screening”⁶. If likely environmental effects are identified, an environmental report must be prepared.
- 33 A combined Strategic Environmental Assessment (SEA) Screening Report and Habitats Regulations Assessment Screening Report was produced and this concluded that:
- “...further assessment under HRA and SEA of the Arches Neighbourhood Plan is required...”*

⁵ Planning Guidance, Paragraph 027, Ref: 11-027-20150209.

⁶ The requirements for a screening assessment are set out in in Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004.

- 34 This took account of the presence of three European sites (Medway Estuary and Marshes Special Protection Area (SPA) and Ramsar site; Thames Estuary and Marshes SPA and Ramsar site; and The Swale SPA and Ramsar site) and the proposed allocation of land for development, including housing development, in the Neighbourhood Plan.
- 35 An SEA Scoping Report was subsequently produced, with the purpose of setting out a suggested scope for the SEA and this was presented to the statutory bodies, Historic England, Natural England and the Environment Agency for comment.
- 36 A Strategic Environmental Assessment for the Neighbourhood Plan was then produced and this took account of comments received.
- 37 The SEA identifies and evaluates the likely significant effects of the Neighbourhood Plan. It concludes that the Neighbourhood Plan will result in a number of positive effects, notably in relation to the historic environment, townscape, community wellbeing and biodiversity. The SEA also concluded that there would be potential positive effects in respect of climate change and air quality.
- 38 The statutory bodies were consulted on the SEA and none disagreed with, or demurred from its conclusions.
- 39 In addition to SEA, a Habitats Regulations Assessment identifies whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans and projects. This Assessment must determine whether significant effects on a European site can be ruled out on the basis of objective information⁷. If it is concluded that there is likely to be a significant effect on a European site, then an appropriate assessment of the implications of the plan for the site must be undertaken.
- 40 In the case *People Over Wind & Sweetman v Coillte Teoranta* (“*People over Wind*” April 2018), the Court of Justice of the European Union clarified that it is not appropriate to take account of mitigation measures when screening plans and projects for their effects on European protected habitats under the Habitats Directive. In practice this means that if a likely significant effect is identified at the screening stage of a habitats assessment, an Appropriate Assessment of those effects must be undertaken.

⁷ Planning Guidance Paragraph 047 Reference ID: 11-047-20150209.

- 41 In response to this judgement, the government made consequential changes to relevant regulations through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018, allowing neighbourhood plans and development orders in areas where there could be likely significant effects on a European protected site to be subject to an Appropriate Assessment to demonstrate how impacts will be mitigated, in the same way as would happen for a draft Local Plan or a planning application.
- 42 Further to the Habitats Regulations Assessment (HRA) Screening Report noted above, a HRA Report was produced. This had the overall objective of identifying whether any land allocation proposed in the Neighbourhood Plan would have the potential to result in likely significant effects and potentially cause an adverse effect on the integrity of the Natura 2000 European sites identified above.
- 43 The HRA Report concluded that the:
- “...Neighbourhood Plan will contain sufficient policy framework to ensure that no adverse effects on the integrity of international designated sites will occur in isolation or in combination with other projects and plans.”*
- 44 Each of the statutory bodies were consulted as part of the process. None of the statutory bodies disagreed with the conclusions set out in the HRA Report.
- 45 In addition to all of the above, I am mindful that national guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations lies with the local planning authority:
- “It is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a neighbourhood plan proposal submitted to it have been met in order for the proposal to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations (including obligations under the Strategic Environmental Assessment Directive)”* (Planning Practice Guidance⁸).

⁸ ibid, Paragraph 031 Reference ID: 11-031-20150209.

- 46 Medway Council has not identified any outstanding concerns in respect of the Neighbourhood Plan's compatibility with EU obligations.
- 47 Taking this and the recommendations contained in this Report into account, I am satisfied that the Neighbourhood Plan is compatible with European obligations.

4. Background Documents and the Arches Chatham Neighbourhood Area

Background Documents

- 48 In completing this examination, I have considered various information in addition to the Arches Chatham Neighbourhood Plan. I also spent an unaccompanied day visiting the Arches Chatham Neighbourhood Area.
- 49 Information considered as part of this examination has included the following main documents and information:
- National Planning Policy Framework (referred to in this Report as “*the Framework*”) (2021)
 - Planning Practice Guidance (2014, as updated)
 - Town and Country Planning Act 1990 (as amended)
 - The Localism Act (2011)
 - The Neighbourhood Plan Regulations (2012) (as amended)
 - The saved policies of the Medway Development Plan⁹, including the Medway Local Plan (2003) (referred to below as the “*Local Plan*”)
 - Basic Conditions Statement
 - Consultation Statement
 - Masterplan and Site Allocations Report
 - Strategic Environmental Assessment and Habitats Regulations Assessment Reports
 - Other Supporting Documents
 - Representations received
- 50 As set out above, the adopted Local Plan pre-dates the NPPF. Whilst I note that there is an emerging Local Plan, this is not at an advanced stage and in any case, there is no requirement for the Neighbourhood Plan to wait until the Local Plan is adopted.
- 51 I note that submitted evidence demonstrates that Local Planning Authority officers have worked together with the Neighbourhood Forum and that information relating to the emerging Local Plan has been considered as part of the Neighbourhood Plan-making process.

⁹ In addition to the Medway Local Plan 2003, the saved policies of the Medway Development Plan include policies relating to minerals and waste.

Arches Chatham Neighbourhood Area

- 52 Arches Chatham Neighbourhood Area is identified on a plan on Map 1 on page 9 of the Neighbourhood Plan. The Arches Chatham Neighbourhood Area was designated by Medway Council on 6 August 2019.
- 53 The designation of the Neighbourhood Area satisfies a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).

5. Public Consultation

Introduction

- 54 As land use plans, the policies of neighbourhood plans form part of the basis for planning and development control decisions. Legislation requires the production of neighbourhood plans to be supported by public consultation.
- 55 Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a 'Yes' vote at Referendum.

Arches Chatham Neighbourhood Plan Consultation

- 56 A Consultation Statement was submitted to Medway Council alongside the Neighbourhood Plan. The information within it sets out who was consulted and how, together with the outcome of the consultation, as required by the neighbourhood planning *Regulations*¹⁰.

¹⁰ Neighbourhood Planning (General) Regulations 2012.

- 57 Following three events to raise awareness of the designation of Arches 'Chatham' Neighbourhood Forum, a neighbourhood planning workshop was held in September 2019. This was followed up with two further public workshops, held in January and February 2020 and a boundary-wide walkabout of the Neighbourhood Area, attended by residents, business owners and Medway Council.
- 58 Online consultation took place during the Covid-19 pandemic and included a survey completed by 150 stakeholders.
- 59 A draft plan was produced and Regulation 14 consultation took place over a period of 10 weeks up until early May 2021. In support of the consultation, leaflets were delivered to all households in the Neighbourhood Area; hard copies of the Neighbourhood Plan were made available in libraries and on request; information banners were placed at two primary schools and at the local shopping centre; and information could be ascertained from and consultation responses submitted via, the Arches 'Chatham' Neighbourhood Forum's website, as well as via hard copy.
- 60 During this time, there were weekly themed webinars – viewed over 2,000 times - and weekly online surveys. Innovative, pro-active methods engagement and consultation included the distribution to young people who engaged in the process of "*Regulation 14 themed*" t-shirts; and the inclusion of Regulation 14 themed stickers within area-wide flyers.
- 61 In addition to the above Consultation Statement provides information to demonstrate that, amongst other things, the plan-making process was well-supported by via media outlets including the local press and Planning Resource, via major and continuous social media activity (for example, a "*Heritage Highlights*" feature attracted over 10,000 views and hundreds of comments) and through a monthly bulletin.
- 62 Taking the Consultation Statement and the above into account, I find that pro-active community engagement and public consultation formed a major part of the plan-making process. There were plentiful opportunities for people to have a say, people were encouraged to engage and responses and matters raised were duly considered. The evidence before me demonstrates an exemplary approach to public consultation.
- 63 Given this, it is clear to me that the consultation process for the Arches Chatham Neighbourhood Plan was robust and that it complied with the neighbourhood planning regulations.

6. The Neighbourhood Plan – Introductory Section

- 64 The introductory section of the Neighbourhood Plan is succinct and clearly sets out the background, purpose, vision and objectives of the Neighbourhood Plan.
- 65 The introduction draws a clear distinction between the Neighbourhood Plan's land use planning policies and community actions; and goes on to provide a precise summary in respect of the Neighbourhood Plan's vision, objectives and site allocations.
- 66 The introduction is impressively unambiguous and precise. I have no recommendations in respect of the need for any changes.
- 67 In respect of the Policies that follow, each Chapter alternates the colour of the background for the text of each Policy and Rationale. Whilst the approach is aesthetically pleasing and clearly distinguishes between Policies and Rationale in each Chapter, it also results in the scope for confusion when considering the Policy section as a whole, or searching for an individual Policy – as the background colours between the Policy and Rationale text become interchangeable.
- 68 The Policies form the most important part of the Neighbourhood Plan and it is important that they are clearly distinguishable. In the interests of clarity, I therefore recommend:
- **All Policies should be set within a box with a blue background**
 - **All Rationale should be set within a box with a white background**
 - **Maintain this consistency throughout the Policy section of the Neighbourhood Plan**

7. The Neighbourhood Plan – Neighbourhood Plan Policies

Housing

Housing Policy HO1 – Affordable Housing

69 National policy establishes that:

“...the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies...”
(Paragraph 62, the Framework)

70 The Local Plan states that:

“...there are significant numbers of people who need homes but cannot afford to buy on the housing market. There is a need to provide these people with opportunities to obtain homes through affordable housing.”
(Para 5.5.5, Local Plan)

71 Policy HO1 sets out a requirement for all developments of ten or more homes to provide at least 10% affordable housing. Whilst a relatively low proportion of any total, in setting this out as an absolute requirement, the Policy does not have regard to Paragraph 64 of the Framework, which provides scope for a reduction in affordable housing provision where vacant buildings are being reused or redeveloped. This is a matter addressed in the recommendations below.

72 As set out, Policy HO1 also states that all new developments must provide affordable housing and market housing. As well as being in direct conflict with the wording of the Policy that follows, this statement fails to recognise, amongst other things that not all development comprises housing or that some residential development may be for a single home.

- 73 The final paragraph of Policy HO1 provides for a degree of flexibility in respect of the delivery of affordable housing, whilst establishing that priority should be afforded to on-site provision and delivery within the Neighbourhood Area. This approach has regard to Paragraph 63 of the Framework, which prioritises the on-site delivery of affordable housing; and to Paragraph 29 of the Framework, which denotes that neighbourhood planning gives communities the power to develop a shared vision for their area.
- 74 Part of the Rationale reads as though it comprises a policy requirement, which it does not and this is a matter addressed in the recommendations below.
- 75 Taking all of the above into account, I recommend:

1. Policy HO1, delete first sentence (“New...size.”)

2. Policy HO1, for clarity, change second (now the introductory sentence) to:

“Family housing is under-represented in the Neighbourhood Area and therefore the delivery of larger homes is strongly supported.”

3. Policy HO1, change third sentence to:

“...of 10 homes or more *should* be affordable. These...”

4. Rationale, change second sentence to:

“For information, whilst not a policy requirement in the Neighbourhood Plan, the results from the exercise...”

Policy HO2 – Beautiful Design

- 76 National policy, in Chapter 12 of the Framework, "*Achieving well-designed places,*" recognises the importance of identifying the special qualities of a place and requires planning policies:

"...to ensure that developments...are sympathetic to local character."
(Paragraph 130, the Framework)

- 77 The Framework also recognises that:

"Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."
(Paragraph 126, the Framework)

- 78 Whilst Local Plan Policy BNE1 ("*General Principles for Built Development*") sets out a more prosaic approach to development, it clearly establishes a requirement for all development to respect its surroundings.

- 79 Policy HO2 promotes good design. It is supported by the ACNP Design Code, which provides considerable detail to guide new development in the Neighbourhood Area and requires all development to respect local character. As such, Policy HO2 has regard to national policy and is in general conformity with strategic local policy.

- 80 As presented, the opening sentence of Policy HO2 states that all development "*must be designed with regard to*" the ACNP Design Code. Whilst the aim and purpose of this is clear, how it might work in practice is not. Paragraph 16 of the Framework states that plans should:

"...contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals;"

- 81 As set out, it is not clear how a decision maker might be expected to know whether or not a planning proposal has had regard to the Arches Design Code and consequently, this is a matter addressed in the recommendations below.

82 The second sentence of Policy HO2 sets out clear requirements for development. However, similarly to the first sentence, the final sentence of the Policy appears vague and does not provide a decision maker with a clear indication of how to react to development proposals and further, the matters referred to in this part of the Policy may not be relevant to all forms of development. This is a matter addressed in the recommendations below.

83 I recommend:

1. Policy HO2, change first sentence to:

“All development proposals should demonstrate that they have had regard to the Design Code (Appendix A).”

2. Policy HO2, change last sentence to:

“The use of renewable energy and energy storage and/or the orientation of buildings to benefit from solar, water efficiency measures, and/or the reuse of locally sourced building materials and/or the integration of district heating systems will be supported.”

Policy HO3 – Family Housing

84 The Neighbourhood Forum has, further to significant work, provided evidence of an undersupply of family housing in the Neighbourhood Area. Policy HO3 seeks to address this imbalance.

85 National policy, in Chapter 52 of the Framework, "*Delivering a sufficient supply of homes*" states that it is important that:

"...the needs of groups with specific housing requirements are addressed..."
(Paragraph 60, the Framework)

86 Policy HO3 seeks to prevent further loss of and supports the delivery of, family housing and in so doing, it has regard to national policy and meets the basic conditions.

87 As presented, the first part of the Policy could be interpreted as placing an obstacle in the way of say, a redevelopment that results in the replacement, but no net loss, of family housing. This is a minor matter that is addressed in the recommendations below.

88 I recommend:

1. Policy HO3, change first sentence to:

"Developments that result in the net loss of family housing in the Neighbourhood Area will not be supported."

Policy HO4 – Site Allocations

89 Paragraph 60 of the Framework states:

“To support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.”

90 The planned delivery of housing forms an essential part of sustainable development and in this respect, national policy (Paragraphs 28-29, the Framework) is clear that neighbourhood plans have a role to play in:

“...allocating sites...Neighbourhood planning gives communities the power to develop a shared vision for their area...”

and national policy is specific in requiring that:

“Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies.”

91 Thus, national policy presents considerable scope for residential development sites to be allocated through the neighbourhood planning process.

92 The Neighbourhood Plan allocates eight sites for development. Evidence has been presented to demonstrate that these allocations have emerged through a rigorous process¹¹ and I note earlier in this Report that the plan-making process has itself, undergone robust consultation and that plan-makers have worked together with the Local Planning Authority and taken account of a wide range of information, including that relating to the emerging Local Plan.

93 Taking this and all of the submitted evidence into account, I am satisfied that the allocation of the eight sites named in Policy HO4 meets the basic conditions.

¹¹ ACNF Site Allocations Report (December 2022).

- 94 Further information in respect of each of the sites, including reference to general design parameters, is set out in supporting information provided in Chapter 4 of the Neighbourhood Plan. I consider this information under “Other Matters” in Chapter 8 of this Report and I note that this further information simply provides guidance, rather than land use policy requirements, in respect of the future development of the allocations.
- 95 The second paragraph of Policy HO4 makes the above clear, but this clarity is obfuscated by the final sentence of the Policy.
- 96 Guidance is precisely that, but the last sentence of Policy HO4 states that developments “*must be designed in line with regard to*” the ACNC Design Code. Notwithstanding the suggestion that non-policy guidance might be treated as an adopted planning policy requirement, this phrase is unclear and does not have regard to national guidance, which requires planning policies to be unambiguous¹²:
- “A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”*
- 97 Consequently, this is a matter addressed in the recommendations below.
- 98 Policy HO4 includes reference to the need for new residential development to contribute towards the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy. This is a necessary provision, required to provide for the mitigation of increased recreational disturbance in respect of European (or Natura) sites and the reference in Policy HO4 aligns with the submitted information in respect of Strategic Environmental Assessment and Habitat Regulations Assessment.
- 99 Similarly to the Policy wording, as addressed above, the Rationale for Policy HO4 appears to raise the status of the content of the ACNP Design Code appended to the Neighbourhood Plan to policy requirements. For clarity, the Design Code provides guidance and does not set out land use policy requirements.

¹² Planning Guidance, Paragraph: 041 Reference ID: 41-041-20140306.

100 The Rationale also seeks to introduce a new policy requirement around the prioritising of the views of Historic England and/or the Local Planning Authority. These are not matters within the control of the Neighbourhood Plan and in this regard, I note that national planning policy provides a clear approach to the conservation and enhancement of heritage assets and that another Policy in the Neighbourhood Plan also considers heritage. Given these factors, the reference to heritage in the Rationale is erroneous and unnecessary.

101 Taking all of the above into account, I recommend:

1. **Policy HO4, second paragraph, change the first sentence following the list of allocations to:**

“Development proposals should have regard to the site-by-site guidance provided in Chapter 4 and to the ACNP Design Code.”

2. **Policy HO4, delete last line (“New...Appendix A”).)**
3. **Rationale, delete the second and third sentences (“Any...precedence.”)**

Policy HO5 - HMO

- 102 The plan-making process has identified negative issues arising from concentrations of Houses in Multiple Occupation (HMO), including the creation of imbalanced communities with weaker community ties.
- 103 The Neighbourhood Plan seeks to address this through the provisions set out in Policy HO5.
- 104 Policy HO5 has regard to Paragraph 28 of the Framework:
- “Neighbourhood planning gives communities the power to develop a shared vision for their area...”*
- 105 Medway Council has made a submission in full support of Policy HO5, stating:
- “...it aligns with the emerging Local Plan policy and provides a useful basis for potential Article 4 direction work.”*
- 106 Taking account of all of the above, no changes to Policy HO5 are recommended.

Policy HO6 – Outdoor Space

- 107 Chapter 12 of the Framework, "*Achieving well-designed places,*" requires plans to provide for high quality development.
- 108 Part of Policy HO6 aims to ensure that all development is supported by the provision of sufficient high quality outdoor space. In this way, the Policy has regard to the Framework.
- 109 As set out however, Policy HO6 mixes the provision of private outdoor space together with the provision of open space and this results in a confusing and vague Policy.
- 110 Local Plan Policy L4 ("*Provision of Open Space in New Residential Developments*") sets out criteria for the provision of open space. Policy HO6 does not add any detail to but rather, appears confusing when considered against Local Plan Policy L4.
- 111 Further to the above, the space measurements set out in Policy HO6 are not supported by any detailed justification. Whilst I note that there is emerging Local Plan policy and existing design guidance in this regard, it is not clear in the absence of detail how Policy HO6 relates to this.
- 112 In addition, the confusing approach to different types of space provision results in a confusing approach to biodiversity net gain. There is no information to demonstrate how the provision of both private and shared outdoor space might, or should, relate to the provision of biodiversity net gain in all cases.
- 113 Further, the Policy goes on to refer to "*the unjustified loss of natural outdoor space, such as gardens,*" but provides no indication of what might or might not be justified, or in what kind of quantity/proportion – for example, all of a garden, a third of a garden, what size of garden ?
- 114 Taking all of the above into account, much of Policy HO6 does not provide a decision maker with a clear indication of how to react to a development proposal and contrary to guidance, appears ambiguous and imprecise.
- 115 I recommend:

- 1. Policy HO6, delete second part of first sentence (" , which can...boundary.")**

2. Policy HO6, delete second and third sentences (“There should...for biodiversity.”)

3. Policy HO6, delete last sentence and replace with:

“The loss of existing garden space will not be supported where it results in harm to the amenity of occupiers.”

4. Rationale, delete second sentence (“All housing...life.”)

Policy HO7 – Historic Environment

- 116 Chapter 16 of the Framework, "*Conserving and enhancing the historic environment,*" recognises that the nation's heritage assets comprise an irreplaceable resource.
- 117 Paragraph 189 of the Framework requires all heritage assets to:
- "...be conserved in a manner appropriate to their significance..."*
- 118 The Framework goes on to require plans to set out a positive strategy for the conservation and enjoyment of the historic environment and take opportunities to draw on the contribution made by the historic environment to the character of a place.
- 119 In general terms, Policy HO7 seeks to ensure that the Neighbourhood Area's rich heritage is conserved. However, as worded, the Policy fails to have regard to national policy and its over-simplification of national policy results in conflict with it.
- 120 For example, national policy does not place a requirement on heritage assets to be enhanced "*where practicable,*" or for "*every effort*" to be made "*to avoid harm.*" Further, such requirements appear ambiguous and imprecise, in contrary to national guidance, as referred to earlier in this Report.
- 121 The Policy goes on to set out requirements in respect of non-designated heritage assets. However, a later Policy is specifically included in the Neighbourhood Plan to identify and plan for non-designated heritage assets. Given this, Policy HO7 includes unnecessary repetition and this is a matter addressed in the recommendations below, taking account of the Policy in the subsequent Chapter of the Neighbourhood Plan.
- 122 To a considerable degree, the final sentence of Policy HO7 is aimed at providing a positive land use planning policy framework for the enhancement of heritage assets. Whilst, as worded, this part of the Policy treats enhancement as a requirement, contrary to national policy, the recommendation below enables the Policy to meet the basic conditions through the creation of a supportive policy approach.

123 Taking all of the above into account, I recommend:

1. Policy HO7, delete first sentence (“Every...proposals.”) and replace with:

“Development must conserve heritage assets in accordance with their significance.”

2. Policy HO7, delete second and third sentence (“In cases...manner.”)

3. Policy HO7, change last sentence to:

“Subject to this, the use of traditional materials, patterns or designs where appropriate and the interpretation, alteration or use of heritage assets to better reveal their significance will be supported.”

Policy HO8 – New and Improved Utility Infrastructure

124 As set out earlier in this Report, national planning policy and guidance requires planning policies to provide decision makers with a clear indication of how to react to a development; and to be clear, precise and unambiguous. Further, Paragraph 16 of the Framework requires that plans should:

“...be prepared positively, in a way that is aspirational but deliverable.”

125 The first part of Policy HO8 includes references to *“where necessary...adequate capacity...the needs generated,”* without providing any evidence in respect of what any of these things might be. This part of the Policy fails to have regard to national policy and advice.

126 The Policy goes on to refer to meeting *“the identified needs of the community.”* There is no evidence demonstrating what these needs might be and consequently, this part of the Policy is ambiguous.

127 The final part of the Policy relies on the above ambiguity and further, seeks to place requirements upon development without any indication that such requirements meet the national policy tests for planning obligations set out in Paragraph 57 of the Framework:

“Planning obligations must only be sought where they meet all of the following tests: a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development.”

128 Policy HO8 does not meet the basic conditions.

129 I recommend:

- 1. Delete Policy HO8**
- 2. Delete Policy HO8 Rationale**

Built and Natural Environment

Policy BNE1 – Public Realm Enhancement

130 Paragraph 92 of the Framework requires planning policies to aim to achieve healthy and safe places. Amongst other things, it promotes:

“...street layouts that allow for easy pedestrian and cycle connections...the use of attractive, well-designed, clear and legible pedestrian and cycle routes...the provision of safe and accessible green infrastructure...”

131 In general terms, Policy BNE1 supports various and wide-ranging public realm improvements. As worded however, the Policy appears to place a significant obstacle in the way of the Neighbourhood Plan contributing to the achievement of sustainable development.

132 Rather than support various improvements, the Policy limits support to “*in principle*” support, without any definition of what these principles might comprise; and requires any improvements to be justified, again without any indication of what such justification might entail, or in respect of who might judge this and on what basis.

133 Resultantly, the Policy wording fails to reflect the clear intention of the Policy, as indicated in the Rationale.

134 Taking all of the above into account, I recommend:

- 1. Policy BNE1, delete the first two lines of text (“Development...include:”) and replace with:**

“The following public realm improvements will be supported:”

Policy BNE2 – Local Green Space

135 Local communities can identify areas of green space of particular importance to them for special protection. Paragraph 101 of the Framework states that:

“The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them.”

136 Paragraph 103, of the Framework requires policies for the managing of development within a Local Green Space to be consistent with those for Green Belts. A Local Green Space designation therefore provides protection that is comparable to that for Green Belt land. Consequently, Local Green Space comprises a restrictive and significant policy designation.

137 As set out, Policy BNE2 does not provide a detailed plan of the areas of the two Local Green Space to be designated but refers to information appended to the Neighbourhood Plan in support of the designations.

138 Given the importance of the designation, Local Green Space boundaries must be clearly identifiable – it should be possible to clearly distinguish the boundaries for all of the designated areas in a precise and clearly identifiable manner, thus preventing scope for dispute in respect of the location of the Local Green Space. This is a matter addressed within the recommendations set out below.

139 The Local Green Space tests set out in the Framework are that the green space is in reasonably close proximity to the community it serves; that it is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and that it is local in character and is not an extensive tract of land.

- 140 The submitted information in support of the two designations in Policy BNE2 as Local Green Space provides evidence to demonstrate why the designations are special and hold a particular local significance. The designation of these sites meets the national policy tests set out in the Framework.
- 141 National policy is explicit in respect of requiring policies for managing development within a Local Green Space to be consistent with those for Green Belts. National Green Belt policy is precise. Policy BNE2's requirements go some way towards this, but to ensure consistency with national policy requirements, as set out in Chapter 13 of the Framework, *"Protecting Green Belt land,"* I make a recommendation below.
- 142 Taking all of the above into account, I recommend:
1. **Policy BNE2, delete last two sentences ("Inappropriate...designations.") and replace with:**

"The areas of Local Green Space are shown on the plan(s) in this Chapter. The management of development within areas of Local Green Space will be consistent with that for development within Green Belts, as set out in national policy."
 2. **Provide a plan (or plans) showing the precise boundaries of both area of Local Green Space in the Built and Natural Environment Policy Chapter.**

Policy BNE3 – Public Open Spaces

143 In “*Promoting healthy and safe communities*,” Chapter 8 of the Framework recognises that:

“Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature and support efforts to address climate change.”

(Paragraph 98, the Framework)

144 National policy goes on to afford protection from development to existing open space, sports and recreational buildings and land.

145 Policy BNE3 supports the provision of new and the protection of existing public open spaces and in this way, it has regard to national policy.

146 As presented, the first part of the Policy supports any form of development, regardless of its impacts, so long as it provides some form of new public open spaces or enhances any existing public open spaces. Such an approach runs the risk of providing support for inappropriate forms of development. However, this is a matter that can be addressed through a minor change to the wording of the Policy, as recommended below.

147 Also as set out, the Policy requires every new open space to provide sports and recreational facilities. This has the potential to comprise an onerous requirement and could place a significant barrier in the way of the delivery of new public open spaces.

148 Public open spaces can vary significantly in form and purpose. Many existing public open spaces provide a wide variety of important roles without providing sports and recreational facilities. Land with significant potential for public open spaces may be inappropriate for sports and recreational facilities, and/or the costs of providing and maintaining such facilities may be prohibitive.

149 Whilst the plan-making process has identified strong support for the provision of new sports and recreational facilities, there is no evidence to demonstrate that imposing this as a requirement for new public open spaces is deliverable, having regard to Paragraph 16 of the Framework.

- 150 Policy BNE3 states that existing public open spaces must be retained but goes on to provide for their replacement. This is a drafting matter addressed in the recommendations below, as the intention of this part of the Policy reflects national policy.
- 151 The final sentence of the Policy is unnecessary and runs the risk of new infrastructure failing to replace public open space when an opportunity to do so exists and again this is a matter addressed in the recommendations below.
- 152 I note and concur with Medway Council's view that the Rationale includes a subjective statement unsupported by submitted evidence and this is a matter addressed in the recommendations below.
- 153 Taking all of the above into account, I recommend:
1. **Policy BNE3, change first sentence to:**

"The enhancement of existing and the development of new public open spaces that provide for a range of activities meeting local needs will be strongly supported."
 2. **Policy BNE3, delete second sentence and replace with:**

"The provision of new sports and recreational facilities will be supported. New public open spaces should be easily accessible."
 3. **Policy BNE3, delete third sentence and the last para ("The retention...available.") and replace with:**

"Existing public open spaces should be retained unless they are replaced with equivalent or better provision in terms of quantity and quality in at least as accessible a location within the Neighbourhood Area and replacement must result in biodiversity net gain."
 4. **Policy BNE3 Rationale, change the text after the first sentence to:**

"...Green. In a densely populated area, these spaces provide valuable parks for local communities and further investment in them can provide for more facilities and improved access. The benefits of open spaces are evidenced in national studies including...report."

Policy BNE4 – Urban Greening

154 Chapter 15 of the Framework, “*Conserving and enhancing the natural environment,*” requires planning policies to contribute to and enhance the natural and local environment, including by:

“...recognising...the wider benefits from natural capital and ecosystem services – including...benefits...of trees and woodland.”

(Paragraph 174, the Framework)

155 In general terms, Policy BNE4 seeks to protect existing trees and to encourage the planting of more trees in response to the Neighbourhood Area’s identified lack of urban green infrastructure.

156 As presented, the Policy seeks to impose extremely onerous requirements on all forms of development other than householder applications, without any evidence to demonstrate that the requirements are deliverable. This approach is contrary to Paragraph 16 of the Framework and fails to meet the national policy tests, identified earlier in this Report, for planning obligations, having regard to Paragraph 57 of the Framework.

157 The Policy goes on to afford some protection to existing trees and the recommendations set out below in this regard seek to clarify and strengthen this part of the Policy, having regard to national policy and taking account of other recommendations.

158 The final sentence of the Policy is unnecessary. Its deletion, as recommended, enables the Policy to encourage all new planting to be of a native species suited to pollution absorption, regardless of location within the Neighbourhood Area.

159 I recommend:

1. Policy BNE4, delete the Policy wording and replace with:

***“The planting of new trees, hedges and hedgerows will be supported. New development (excluding householder applications) should take opportunities to increase green infrastructure, including green roofs and walls and pleached trees.*”**

Existing trees in the Neighbourhood Area should be retained. In the exceptional circumstances where it has been demonstrated that a tree needs to be felled, it must be replaced within the Neighbourhood Area with at least one new tree of at least Heavy or Extra Heavy Standard (12cm-16cm girth).

All new tree planting should be of a native species suited to pollution absorption wherever possible."

2. Policy BNE4 Rationale, line 1, change "joint" to "joined"

Policy BNE5 – Protection of Designated Sites

- 160 As noted earlier in this Report, the Neighbourhood Plan has been subject to Strategic Environmental Assessment and Habitats Regulations Assessment.
- 161 Further to the above, Medway Council and the statutory bodies, Natural England, Historic England and the Environment Agency have found the Neighbourhood Plan to be compatible with relevant legislative requirements.
- 162 Policy BNE5 provides a non-prescriptive land use planning policy setting out that development proposals must avoid harm to areas of international importance and in so doing, it contributes to the achievement of sustainable development.
- 163 The Rationale to Policy BNE5 attempts to set out an over-simplified summary of complex matters and in so doing, much of the Rationale is written as though it comprises a Policy, which it is not. These are matters addressed in the recommendations below.
- 164 I recommend:

- 1. Delete the Rationale to Policy BNE5 and replace with a new Rationale:**

“The Neighbourhood Plan recognises that development in the Neighbourhood Area has the potential to impact on sites of international importance (See Strategic Environmental Assessment and Habitat Regulations Assessment information submitted alongside the Neighbourhood Plan). In addition, the Neighbourhood Plan seeks to encourage the protection and improvement of its limited woodland.”

Policy BNE6 – Non-Designated Heritage Assets

165 As noted earlier in this Report, Chapter 16 of the Framework, "*Conserving and enhancing the historic environment*," recognises that the nation's heritage assets comprise an irreplaceable resource and Paragraph 189 of the Framework requires all heritage assets to:

"...be conserved in a manner appropriate to their significance..."

166 The Framework goes on to require plans to set out a positive strategy for the conservation and enjoyment of the historic environment and take opportunities to draw on the contribution made by the historic environment to the character of a place.

167 An earlier Policy in the Neighbourhood Plan, Policy HO7, provides an overall approach to conserving the Neighbourhood Area's rich heritage. However, whilst the submitted version of Policy HO7 set out requirements in respect of non-designated heritage assets, it is Policy BNE6 that is specifically included in the Neighbourhood Plan to identify and plan for non-designated heritage assets.

168 Policy BNE6 identifies fourteen non-designated heritage assets, the designation of which is supported by detailed assessments¹³ submitted alongside the Neighbourhood Plan.

169 Given the above, it is appropriate for Policy BNE6 to set out how development proposals affecting non-designated heritage assets will be considered, rather than simply referencing national policy, as is currently the case. This is a matter addressed by the recommendation below.

170 I recommend:

1. Policy BNE6, change opening sentence to:

"Proposals which directly or indirectly affect non-designated heritage assets should demonstrate that the benefits of the development outweigh any loss of significance of the asset and cannot otherwise be provided in a less harmful manner."

2. Policy BNE6 Rationale, change second sentence to:

"...Assets, they are afforded protection from the negative..."

¹³ Reference: Appendix B: Non-designated Heritage Assets Nomination Rationale.

Sustainable Transport

Policy ST1 - Air Quality

171 National planning policy, in Chapter 9 of the Framework, "*Promoting sustainable transport*," requires transport issues to be considered from the earliest stages of plan-making and development proposals so that:

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

(Paragraph 104, the Framework)

172 Air quality is identified as a matter of concern in the Neighbourhood Area and having regard to national policy, Policy ST1 seeks to provide a proactive planning framework to address the issue.

173 As set out, the Policy excludes change of use-related development without justification and this is a matter addressed in the recommendations below. Further, some of the wording of the Policy appears convoluted and through the use of the phrase "*where appropriate*," inappropriately vague. Further, all of the bullet points in the Policy do not relate to the introductory sentence.

174 Together, the above factors detract from the clarity and precise nature of Policy ST1, having regard to national guidance requirements for planning policies to be clear and precise.

175 The Rationale for Policy ST1 includes a reference to PM2.5, which Medway Council notes is not a pollutant of concern/is a pollutant over which Medway Council has no statutory responsibilities. Also, the final sentence of the Rationale appears anecdotal rather than as supporting text for Policy ST1. It is recommended that these references be removed.

176 I recommend:

- 1. Policy ST1, first sentence, delete: "*except those which involve the change of use of premises*,"**

2. Policy ST1, second sentence, add:

“...action plan and planning guidance.”

3. Policy ST1, delete third sentence and replace with:

“The following will be supported”:

4. Policy ST1 Rationale, first sentence, change to:

“Nitrogen dioxide is the main pollutant of concern...”

5. Policy ST1 Rationale, delete last sentence (“In...Guidelines. (link)”)

Policy ST2 – Active Travel Routes

177 Paragraph 104 of the Framework requires active movement to be considered as part of the plan-making process so that:

“...opportunities to promote walking, cycling and...patterns of movement...contribute to making high quality places.”

178 Policy ST2 promotes the creation of active travel routes and has regard to the Framework.

179 As worded, the Policy supports any form of development, regardless of impacts, so long as it proposes to revive or create new routes for active travel. This runs the risk of supporting inappropriate forms of development, placing an obstacle in the way of the Neighbourhood Plan contributing to the achievement of sustainable development and is a matter addressed in the recommendations below.

180 I recommend:

1. Change the wording of Policy ST2 to:

“The revival or creation of new routes for active travel which are publicly accessible, well-maintained and safely designed for users will be supported.”

Policy ST3 – Humanising Luton Road

181 As set out, Policy ST3 supports improvements along Luton Road via traffic management measures. Whilst of course environmental improvements are supported, no evidence has been provided to demonstrate that Policy ST3 is a deliverable land use planning policy, having regard to the Framework's requirement, set out in Paragraph 16, for plans to be deliverable.

182 Notwithstanding the above, I recognise from the submitted information that Luton Road has been identified as not being pedestrian-friendly and that there is considerable scope for public realm improvements. Whilst noting that Policy BNE1 addresses public realm improvements across the Neighbourhood Area, the following recommendation recognises the specific community concerns associated with Luton Road.

183 I recommend:

1. Policy ST3, delete wording and replace with:

“Improvements to the public realm along Luton Road, including measures to minimize traffic impacts, will be supported.”

Policy ST4 - Parking

- 184 Chapter 9 of the Framework, “*Promoting sustainable transport,*” requires parking to contribute to making high quality places and states that applications for development should be designed to enable charging of low-emission vehicles in safe, accessible and convenient locations.
- 185 To some degree, Policy ST4 seeks to ensure that parking is not unduly dominant and provides for electric charging and in this way, the Policy has regard to the Framework.
- 186 As worded, Policy ST4 includes a vague reference to “*car-lite*” development unsupported by a detailed definition. Medway Council has provided suggestions as to how the Policy might be reworded in respect of this and other respects and these are taken into account in the recommendations below.
- 187 The Policy goes on to impose an absolute requirement for all car parking spaces to have electric chargers without any indication of whether or not such a requirement is deliverable. In the absence of any information, it is not possible to conclude that such an approach could prevent, rather than provide, for the provision of car parking.
- 188 In the above regard, the Neighbourhood Forum has suggested that the provision of electric chargers could be changed to relate to the provision of new homes – as opposed to the submitted Policy requirement for blanket provision with every car parking space – and this is taken into account in the recommendations below.
- 189 The Rationale includes an unsupported assertion and there is a confusing introduction to the penultimate sentence. These are also matters addressed in the recommendations below.
- 190 I recommend:

1. Policy ST4, delete first two sentences and replace with:

“Parking provision in new development should be minimised and must not dominate the streetscene. Opportunities for on-street parking should be supported by a parking stress survey. New car parking spaces for residential development should have electric chargers or passive electric chargers with future capability built in. Electric car club spaces will be supported.”

2. Policy ST4 Rationale, change second sentence to:

“...with new development can help to reduce car dependency.”

3. Policy ST4 Rationale, change penultimate sentence to:

“Reducing the spatial impacts of parking can create opportunities for the provision of additional homes, green...”

Local Economy

Policy E1 – Encouraging New Business

- 191 Chapter 6 of the Framework, “*Building a strong, competitive economy,*” requires planning policies to help create the conditions in which businesses can invest, expand and adapt.
- 192 In general terms, Policy E1 supports business development in the Neighbourhood Area and in this way, it has regard to national policy.
- 193 As worded, the Policy appears imprecise and vague – rather than support specific development, it requires development proposals to demonstrate “*the right conditions for business to flourish.*” Further, the Policy refers to enabling provision for social and cultural enterprises and for the enabling of affordable workspace at rents below the market average, without providing any mechanism to achieve this, or evidence of deliverability.
- 194 Taking all of the above into account I recommend:

1. Policy E1, delete wording and replace with:

“The development of new Class E(g) business space with superfast broadband will be supported. Amongst other business space, this includes support for the development of social and cultural enterprises and/or affordable workspace at rents below the market average.”

Policy E2 – Mixed-Use

195 Policy E2 states that development “*consistent with the principles of 15 minute neighbourhoods*” should be supported. This is a vague and imprecise Policy which does not have regard to national guidance and does not meet the basic conditions.

196 Nowhere does the Neighbourhood Plan set out what the principles referred to in the Policy comprise, resulting in an approach which appears to simply support all development – given that most, if not all, of the Neighbourhood Area is located within 15 minutes of services and facilities.

197 In making the recommendation below, I am mindful that the Policy does not add any neighbourhood-level detail to existing policy. I note that the recommendation does not place any obstacles in the way of sustainable development, that may or may not be consistent with the vague idea of 15 minute neighbourhoods, from coming forward.

198 I recommend:

- 1. Delete Policy E2**
- 2. Delete the Rationale for Policy E2**

Policy E3 – Retail Frontages

199 Policy E3 seeks to ensure that shopfront development in the Neighbourhood Area responds to local character in a positive manner and in so doing, it has regard to Paragraph 130 of the Framework which seeks to ensure that developments:

“...are visually attractive...are sympathetic to local character and history...establish or maintain a strong sense of place, using...streets, spaces, building types and materials to create attractive, welcoming and distinctive places...”

200 As worded, Policy E3 includes an ambiguous requirement for development to have “*a specific positive regard*” to guidance. It is not clear how this might be demonstrated and what the wording means in respect of how a decision maker should react to a development proposal, having regard to Paragraph 16 of the Framework. This is a matter addressed in the recommendation below.

201 I recommend:

1. Policy E3, change wording to:

“...shopfronts must demonstrate how they have taken account of relevant guidance in the ACNP Design Code.”

Policy E4 – Healthy Businesses

202 National planning policy, in Chapter 8 of the Framework, "*Promoting healthy and safe communities,*" states that planning policies should aim to achieve healthy places.

203 Specifically in respect of enabling healthy communities, Paragraph 92 of the Framework states that planning policies should:

"...support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through...access to healthier food."

204 The Neighbourhood Forum has identified that the Neighbourhood Area suffers from lower healthy eating levels than the surrounding area and from higher cases of childhood and adult obesity; and that the Neighbourhood Area ranks poorly against averages for the wider area in terms of general health and limiting long-term illness.

205 In general, Policy E4 is aimed at addressing this and in so doing, it has regard to national policy. I also note in this regard that Paragraph 29 of the Framework states that neighbourhood planning gives communities the power to develop a shared vision for their area and that to a large degree, Policy E4 reflects this power.

206 The opening sentence of the Policy comprises a general statement and relates to support for businesses rather than to land use planning.

207 As worded, the second sentence of the Policy states that hot food takeaways must not be located within 400m walking distance of schools. However, during my site visit, I observed there to be many such takeaways and consequently, as worded, the Policy is confusing.

208 The Rationale to Policy E4 includes references to matters not relevant to the land use planning Policy and this is a matter addressed in the recommendations below.

209 The Neighbourhood Forum has stated that the Policy is intended to apply only to new takeaways and taking this and all of the above into account, I recommend:

1. Policy E4, delete first sentence and change second sentence to:

“New hot food takeaways should not be developed within 400m walking distance of primary or secondary schools.”

2. Policy E4 Rationale, delete all of the first paragraph except for the second sentence (“An overconcentration...Note 2014.”)

Community Spaces

Policy CS1 – Safeguarding Existing Social Infrastructure

210 Paragraph 92 of the Framework states that:

“Planning policies and decisions should aim to achieve healthy, inclusive and safe places...”

211 Further, Paragraph 93 of the Framework goes on to require planning policies and decisions to:

212 *“...plan positively for the provision and use of...community facilities (such as local shops, meeting places...cultural buildings, places of worship) and other local services to enhance the sustainability of communities and residential environments”*

and goes on to require planning policies to:

213 *...guard against the unnecessary loss of valued facilities and services where this would reduce the community's ability to meet its everyday needs.”*

214 Policy CS1 identifies community facilities to be safeguarded against unnecessary loss and in so doing, it has regard to national policy.

215 The final sentence of the Policy reads as a general statement rather than a land use planning requirement and the recommendations below account of this and the need for policies to be clear and precise.

216 I recommend:

1. Policy CS1, change second sentence to:

“The enhancement of community facilities will be supported. The loss of community facilities will not be supported unless it can be demonstrated that any of the following can be met:”

2. Policy CS1, delete final sentence (“Consideration...change.”)

Policy CS2 – Provision of Sports Facilities and Play Spaces

217 As noted earlier in this Report, in promoting open space and recreation, national policy recognises that:

“Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities...”

(Paragraph 98, the Framework)

218 In general terms, Policy CS2 supports the provision of sports facilities and outdoor play spaces and has regard to the Framework.

219 As worded, the Policy requires all development to include or contribute to sports and play provision. This is an onerous requirement and is not supported by any evidence of deliverability, having regard to Paragraph 16 of the Framework. Inclusion of the phrase *“where justified”* results in ambiguity, contrary to national guidance in respect of planning policy wording.

220 The Policy includes prescriptive requirements unsupported by evidence in respect of deliverability and this is a matter addressed in the recommendations below.

221 I recommend:

1. Policy CS2, delete Policy wording and replace with new wording:

“The development of new sports facilities and outdoor play spaces accessible by walking and cycling will be supported.”

2. Policy CS2 Rationale, second paragraph, change to:

“For information, Play England’s Design for Play Guide recommends that quality play spaces should:”

Policy CS3 – Improving Green Space

222 Policy CS3 has the overall aim of improving existing green spaces and this has regard to national policy's support for access to a network of high quality open spaces referred to above.

223 As set out, the Policy is founded on an ambiguous requirement, unsupported by any evidence in respect of deliverability, for all development to improve green spaces. Further, there is nothing to demonstrate that the Policy, as worded, meets the national policy tests for planning obligations set out in Paragraph 57 of the Framework and detailed earlier in this Report.

224 Taking the above into account, I recommend:

1. **Policy CS3, delete the first paragraph (“Where...measures:”) and replace with:**

“The enhancement of existing green spaces will be supported. Improvement measures could include:”

2. **Policy CS3, last line, change “my” to “by”**

8. The Neighbourhood Plan: Other Matters

- 225 Chapter 4 of the Neighbourhood Plan provides general information in support of the development sites allocated in Policy HO4.
- 226 In general terms, Chapter 4 provides useful informative details. However, the Chapter confuses allocations in the Neighbourhood Plan with general information, such that part of Chapter 4 is worded as though it comprises a Policy requirement – which it does not. I make recommendations in this regard below.
- 227 The recommendations made in this Report will have a subsequent impact on Contents, including Policy and Page numbering.
- 228 I recommend:

- **Chapter 4, under “Site Allocations,” delete first and second paragraphs (retain third paragraph) and replace with:**

“This section provides further details in respect of the sites allocated for development in Policy HO4. The information provided is intended to inform the future development of the 8 Site Allocations in the Neighbourhood Area. The sites are expected to...building heights.

For clarity, this information is indicative only – the sites will be subject to planning applications made at the discretion of the landowners. The intention of the information provided is to set out the community’s vision and aspirations for the sites. The information set out below also suggests a number of ‘key development principles.’ Again, these are intended to help steer future development at this early stage, providing information in respect of access, flood risk and heritage.”

- **Site 1, change “Maximum height parameter” to “Indicative height parameter”**

- Site 1, Key development principles, line 3, change to: “...layout. *The provision of access and amenity space to the northern part of the site would serve to reduce traffic noise and pollution.*”
- Site 2, change “Maximum height parameter” to “*Indicative height parameter*”
- Site 2, Key development principles, line 3, change to: “...west. *Provision of an active frontage of mixed uses on the High Street would help to repair the historic urban grain of the street. There is also an opportunity to achieve enhanced permeability...centre*”
- Page 36, delete second paragraph (“In accordance...should:”) and replace with: “*This allocation provides opportunities for development to:*”
- Site 3, change “Maximum height parameter” to “*Indicative height parameter*”
- Site 3, Key development principles, line 2, change to: “...(AQMA). *The development of the site presents an opportunity for access and amenity...pollution.*”
- Site 4, change “Maximum height parameter” to “*Indicative height parameter*”
- Site 4, Key development principles, line 1, change to: “...*There is an opportunity for proposals to consider...(AQMA).*”
- Site 5, change “Maximum height parameter” to “*Indicative height parameter*”
- Site 5, Key development principles, line 2, change to “...the site *there is an opportunity for residential development to continue...turn the corner*”
- Site 6, change “Maximum height parameter” to “*Indicative height parameter*”
- Site 7, change “Maximum height parameter” to “*Indicative height parameter*”

- **Site 7, Key development principles, line 3, change to: “.../garden). Access into the site might be focused...frontage.”**
- **Site 8, change “Maximum height parameter” to “Indicative height parameter”**
- **Site 8, Key development principles, line 1, change to: “Proposals might consider...road. Outdoor amenity space might be located...site.”**
- **Page 44, change heading to “Chapter 5”**
- **Update the Contents, Policy and Page numbering, to take into account the recommendations contained in this Report**

9. Referendum

229 I recommend to Medway Council that, subject to the recommended modifications, **the Arches Chatham Neighbourhood Plan should proceed to a Referendum.**

Referendum Area

230 I am required to consider whether the Referendum Area should be extended beyond the Arches Chatham Neighbourhood Area.

231 I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.

232 Consequently, I recommend that the Plan should proceed to a Referendum based on the Arches Chatham Neighbourhood Area approved by Medway Council on 6 August 2019.

Nigel McGurk, November 2023
Erimax – Land, Planning and Communities