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**Report of 16 April 2009**

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**East Malling & Larkfield**                      **569923 157169**    **20 November 2008**    **TM/08/03256/CR4D**  
East Malling

Proposal:                      Proposed redevelopment of the Former Mill Stream Junior School to provide 23 new residential dwellings comprising a mix of 1, 2, 3 and 4 bed units together with associated garaging and parking

Location:                      Former Mill Stream School Mill Street East Malling West Malling Kent

Applicant:                      Hillreed Homes & Kent County Council

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**1. Description:**

- 1.1 This proposal is for the residential redevelopment of the majority of the built up area of the former Mill Stream school site. The remaining built up part of the school site is currently being developed to provide 7 PFI assisted living units along the eastern section of the site. The current application proposes a mix of 2 no. one bed units, 3 no. two bed units, 14 no. three bed units and 4 no. four bed units, giving a total of 23 residential properties. Five of the units are to be affordable.
- 1.2 The proposed housing scheme provides a mix of detached, semi-detached and terraced properties. These residential units will be predominantly two storeys high, apart from three of the units on the rear section of the site which will be 2 ½ storeys high, i.e. small pitched dormers in the roof and windows in gabled ends.
- 1.3 The proposed scheme provides a new vehicular access onto Mill Street, incorporating a raised tabled junction. This will be a new vehicular access separate from that serving the PFI housing site. The proposal retains the protected trees within the development site, as well as maintaining the open green space fronting onto Mill Street. Each of the proposed dwellings will be served by at least two parking spaces or garage spaces, apart from the one bed units which will be served by 1 parking space each. The proposal also includes the provision of an access through the development site to the Blacklands Scout Hut. The submitted drawings indicate a turning and track from the edge of the application site and the scout hut. These works are outside the extent of the application site and not subject to consideration as part of this application.
- 1.4 The applicant has submitted various supporting reports, covering contamination, an arboricultural assessment, energy efficiency, an extended phase 1 habitat survey, drainage and a Design, Planning and Access Statement. A letter from the head of the PFI project at KCC has been submitted explaining why an integrated single access to serve both the PFI site and this proposal is not achievable, principally due to different timings of the development and lack of certainty. The

applicant has also submitted additional highway drawings and a highway statement of the works in the public highway, which are currently subject to consultation.

- 1.5 Members will note that this is a joint submission from Hillreed Homes and Kent County Council, as KCC still owns the site. The supporting letter from Hillreed states *“the proceeds from the sale of the land will, we understand, go some way towards the cost of the relocated school and therefore, it is important to KCC that the sale proceeds are achieved within the current financial year”*.
- 1.6 The applicant has submitted an additional letter which states: *The application site comprises the whole of the former school grounds and as such is redundant land offered by KCC to enable the new school to be built. This has provided only a logical disposal but assisted with the new school funding in the wider public interest. The development also provides for access to serve the nearby scout hut. The adjoining PFI scheme under construction immediately to the east extends beyond the built area boundary to a similar extent. The letter from KCC dated the 3 November 2008 also refers to the substantial compensatory and legal costs associated with delaying the PFI scheme at this stage if a joint access is sought”*.

## **2. Reason for reporting to Committee:**

- 2.1 At the request of Councillor Christine Woodger and due to a section of the site lying outside the recently extended rural settlement confines of East Malling.

## **3. The Site:**

- 3.1 The majority of the application site lies within the rural settlement confines of East Malling village. The northern most part of the application site lies outside the village confines. The western section of the high level ragstone fronting onto Mill Street lies within the Mill Street Conservation Area. The site also contains a number of trees protected a Tree Preservation Order.
- 3.2 The application site is part of the former Mill Stream Junior School, which lies on the northern side of Mill Street, opposite Cottenham Close. All the former school buildings have been demolished and hoarding erected at the front of the site. The hardstanding areas and playgrounds still exist. There are two vehicular access points, the main entrance close to the eastern boundary, which now serves the approved KCC assisted living accommodation block, and a small vehicular access located more centrally to serve an electric substation at the front of the site. There is a low level ragstone wall fronting on Mill Street, which also includes a memorial cross. The land levels drop away to the north of the site.
- 3.3 To the north of the application site lies the former school playing fields, a scout hut and the Malling School, whilst to the east and beyond the PFI housing site lies East Malling recreation ground. To the south of the site lies a mix of semi-

detached two storey dwellings and a number of detached bungalows which sit on a bank overlooking the application site. Finally to the west lies 84 Mill Street and the start of the Mill Street Conservation Area.

- 3.4 The application site area is 0.7 hectares. The proposed density of the scheme is 33 dwellings per hectare.

#### 4. Planning History (most relevant):

TM/06/01645/LDCE Certifies 15 September 2006

Lawful Development Certificate Existing: School.

TM/06/03385/CR3 Approved 15 February 2007

Erection of a two storey detached building comprising 7 supported apartments for people with learning difficulties with communal space together with access, car parking and landscaping.

TM/08/01829/CR3 Approved 1 December 2008

Details of the design of the windows, access and turning and refuse storage area submitted pursuant to planning permission TM/06/3385/CR3: Erection of a two storey detached building comprising 7 supported apartments for people with learning difficulties with communal space together with access, car parking and landscaping.

#### 5. Consultees:

- 5.1 PC: Traffic movements generated by this application will be a serious addition to the ever increasing Mill Street traffic problem. Hopefully most of the newly generated traffic will exit left, thus avoiding the very narrow parts of Mill Street. As traffic movements seem no longer to be a planning issue in Mill Street we have no objection. We do however have these observations:

5.1.1 Site footprint: The understanding was that any development would be on the school footprint and no more. This area clearly exceeds the school footprint.

5.1.2 Second entrance: We accept the explanation for a second entrance, but find the chosen location most undesirable, due to its proximity to the Cottenham Close junction and its poor site line to the right. An alternative position is difficult as the protected chequer tree prevents a preferred move to the east, unless it can exit between T3 and T2. We wish to see the remains of the old wall to the west remain in situ, English Heritage may have to be informed of any tampering as there is an application out for the listing of this wall. We welcome the intention to reinstate the school wall to its original six foot height, construction to comply to traditional build, pointing and lime mortar mix, ref VDS. The exhaust emission of vehicles awaiting

exit from the estate could affect the health of the chequer tree, an aspect we would like investigated.

- 5.1.3 Raised Table: We welcome Kent Highways request for a raised table to slow traffic in Mill Street, at the entrance to the estate. This action was proposed by Parish Councillors to slow traffic approaching the Upper Mill development, and to be sited prior to Cottenham Close. It was rejected by Kent Highways. Admitting this error, can we now anticipate the removal of the dangerous pinch, as the bunching caused by it could be a hazard to those exiting the site?
- 5.1.4 Three storey: This is a misnomer as the third floor is within the roof void, and does not affect the overall height of the buildings.
- 5.1.5 Style: The catalogue house styles and their materials, presented for this site, appear to contradict the statement by Hillreed in 1.4 and 1.5 of their Design, Planning and Access Statement – “*take great pride in constructing developments that compliment and enhance the existing surroundings*” and “*dwellings built in local vernacular styles*”. Would they at least ensure that dwellings visible from Mill Street and respect of materials with the VDS criteria as this frontage is a very visible link between the Mill Street’s two Conservation Areas. The tile hanging, weather boarding and half hips are all alien to East Malling village. Use of small window panes throughout is an excellent use of VDS.
- 5.1.6 Clarification of details on a number of plots sought and raising concerns over the choice of some of the external materials.
- 5.1.7 The planning application for this site includes a very small area of amenity open land on the Mill Street frontage. The PC wonders if this is to be adopted by TMBC or who will be maintaining it.
- 5.1.8 The PC feels that additional land should be provided and the former school playing field which is outside the village confines should be allocated to meet the requirements of this site. It is of course largely an open area of grass field with an existing pedestrian gate to the playing fields and would naturally be an extension to that land. Furthermore there would appear to be no other land close to this site available and it is owned by the County Council which is a joint applicant.
- 5.2 KCC (Highways): Parking: The proposal is for a total of 23 dwellings of a mixture of 1, 2, 3 and 4 bedrooms. A total of 49 off street parking spaces are to be provided in the form of garages, a car barn and communal parking areas. I am satisfied with this level of off street parking. The applicant is reminded that parking bays are to be a minimum of 2.5m (width) x 5.0m (length) with end bays or bays in confined spaces widened to 2.7m. The preferred size for a single garage is 3.6m (width) x 5.5m (length) with a double garage 6.0m (width). This is to accommodate the needs of storage and the mobility impaired. However, the stated dimensions are acceptable.

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- 5.2.1 Access road: The details of the access road and the general layout as shown on drawing number 289/01 Rev A are acceptable. All works will be constructed in accordance with Kent Design and those promoted for adoption to be subject to a legal agreement.
- 5.2.2 Junction: A new junction is to be created onto Mill Street and the details shown on drawing 289/01 Rev A are as previously discussed. Amendments are proposed on Mill Street to create a table junction covering the proposed access and Cottenham Close. These works will be constructed to Kent Highway Services specification and satisfaction and be subject to a legal agreement and the safety audit procedures. Details of the public highway drainage in the vicinity will need investigating to ensure that highway drainage is not compromised by the construction of the table.
- 5.2.3 Traffic Generation: Bearing in mind the last use of the site or the other lawful uses that the site could be used for without the need for a planning approval I do not consider traffic generation to be an issue.
- 5.2.4 Highway drainage and street lighting details to be submitted for consideration. Surface water from private areas is not to discharge onto the public highway. The applicant is advised to liaise with the local authority regarding refuse storage and collection. The applicant needs to ensure that adequate on site turning facilities are provided to enable the refuse freighter to be able to turn to leave in a forward direction. I would support this application.
- 5.3 DHH: Environmental Protection: No objection.
- 5.3.1 Waste: No comment on detailed scheme.
- 5.3.2 Housing: The affordable housing is based on the total of the 7 PFI units and 23 Mill Street Units. 40% of these 30 units are 12 units, so the balance of the Hillreed scheme is 5 units. These 5 units are proposed as 1x2 bed, 2X3 bed and 2x1 bed.
- 5.3.3 Contamination: The contamination report after preliminary risk assessment and soil chemical analysis draws conclusion that no remediation is required in relation to ground contamination. I concur with the conclusion.
- 5.4 Natural England: Bats: The survey information provided indicates several trees within the application site with the potential to support bats. Natural England supports the recommendation for further surveys for bats to be carried out, the results of which to be used to inform a detailed mitigation strategy if necessary. Natural England recommends that the results of this survey should be provided prior to determining this application.
- 5.4.1 Widespread reptiles: The survey information provided by the applicant indicates habitat suitable to support reptiles within the application site. Natural England supports the recommendation for further surveys for reptiles to be carried out, the

results of which to be used to inform a detailed mitigation strategy if necessary. Natural England recommends that the results of this survey should be provided prior to determining this application.

- 5.4.2 Breeding birds: The survey information provided indicates that the application site has the potential to support breeding birds. However providing any site clearance works are conducted outside the breeding bird season and replacement nesting opportunities are provided through the landscaping strategy at the detailed application stage, Natural England is satisfied that this proposal should not be detrimental to the local breeding bird populations.
- 5.5 KWT: An experienced consultancy has carried out the extended phase 1 survey and its assessment. The Trust has no reason to question the findings and recommendations contained in the survey report. The Trust has no objection, in principle, to the development subject to the imposition of conditions to secure the completion of the further surveys, mitigation measures and enhancement initiatives recommended in the report.
- 5.6 East Malling Conservation Group: We still believe that the preferred solution of one entrance could still be achieved if all parties took a creative approach. Reviewed the drawings taking consideration of the concerns of the residents that enter and exit Cottenham Close and suggest changes to the kerblines on the corners.
- 5.6.1 The roof tiles should be plain tiles, not interlocking as proposed. Can the submission of roof materials be subject to a condition which will allow the application to be approved and roof materials to be discussed and agreed in the fullness of time? If our proposal to move the selection of roof materials to condition of the approval we support this application.
- 5.7 EA: No comments to make on the further details submitted, subject to imposition of conditions relating to surface water drainage and contamination.
- 5.8 NHS West Kent PCT: Seeking a contribution of £22,824 from a Section 106 Agreement for healthcare.
- 5.9 Mouchel (KCC): Seeking contributions towards libraries, youth and community and adult social services. Libraries contribution to be spent at West Malling library for increasing capacity. Youth and Community contribution to be spent on a new community hub to serve the local area and provide a base for outreach work. Adult Social Services contribution to be spent on Malling Community Hub which is proposed for the West Malling vicinity.
- 5.10 Southern Water: I can confirm that the drainage statement is acceptable to Southern Water and would recommend the acceptance of the proposed pumping station with discharge limited to 0.6 l/s.

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5.11 Private Reps: 119/0X/0S/21R. Twenty one letters and DVD have been received objecting on the following grounds:

- Widening of the pathway in Mill Street will make access difficult for large delivery vehicles to turn into Cottenham Close and will make it difficult to turn into driveways;
- 2½ / 3 storey buildings are not appropriate in this part of Mill Street. There should be a proportion of bungalows, as it is essential to a village fabric;
- Support entrance position and an interesting square;
- Development is too intensive;
- Frontage dwellings should not have reflective roof finishes;
- Loss of privacy;
- Parking will occur along the frontage;
- Pleased to see trees preserved on the public open space;
- Development wraps around No.84 Mill Street;
- Lack of additional boundary planting;
- No objection to housing on the site, just the extent of housing proposed;
- New access is located too close to Cottenham Close and will result in dangerous highway conditions;
- It will be difficult for vehicles to exit Cottenham Close;
- The tabled junction is add to existing highway problems;
- The existing access to the former school site should be used;
- Lack of parking spaces for the housing scheme;
- The existing highway arrangement with the priority junction does not work very well;
- The wider road network has a number of narrow pinch points;
- Poor visibility from the development site;
- Access for fire appliances will be restricted;
- Double yellow lines on the corner of Cottenham Close are proposed;

- It will increase traffic flows in the area.
- The tabled junction would slow westward moving down and theoretically make the area safer;
- The extent of the new build is larger than the former school buildings

5.12 A8 Site & Press Notice: One letter received objecting on the following grounds:

- Increase in traffic movements and destroy village atmosphere.

5.13 Blacklands Scout Group: Main concerns are safe access to our hut for all users (currently 65 in the group plus parents and siblings). A clear unobstructed access at all times for us to be able to load our minibus and trailer with camping equipment and to be able to safely exit through the housing development. (A good turning circle is needed with the trailer fully loaded). When our access arrangements have been settled we do not foresee any objections to the planning application as long as the above matters are taken into account.

5.13.1 Additional comments: Access arrangements to our Scout hut along with the provision have been agreed. We have discussed temporary arrangements whilst building is in progress and can now confirm that we have no objections to the above application by Hillreed.

5.14 **Further consultations were undertaken on the 24 March 2009** in relation of details of highway works, amended application site and area and amended indicative access to scouts hut. Responses to this additional consultation will be reported in the supplementary papers.

## 6. Determining Issues:

6.1 The main uses to be considered are whether the residential development is acceptable as a matter of principle, whether the development detracts from the visual amenity of the locality (including an assessment of any impact on the Conservation Area) and whether the proposal constitutes a highway hazard.

6.2 The development proposals form part of the slightly wider redevelopment site of the former Mill Stream School. The eastern section of the former school site is currently delivering 7 PFI assisted living residential units. The playing fields to the rear of the former school buildings are retained by KCC. The remaining land is subject to the current application and includes the site of the former school buildings, the playgrounds, footpaths and a grass bank leading down to the playing fields. The proceeds of the sale of the site by KCC are intended to go towards the cost of building the new school for St James The Great off Chapman Way, which was created out of the merger of Mill Stream School and St James School. In part therefore, the scheme can be seen as enabling development, albeit that the new school has already been built.



- 6.3 The rural settlement confines of Mill Street were altered in the Development Land Allocations Development Plan Document in April 2008. These confines are essentially drawn around the former school buildings, playgrounds and footpaths. It does not however include the former playground of the school, where the PFI housing units are now located. Prior to the demolition of the school buildings, KCC formally recorded the extent of buildings and hardstanding areas incorporating playgrounds, access roads and car parks through a lawful development certificate. The buildings on the site had a built footprint of 1505 square metres. The current proposals have a footprint of 1610 square metres. Notwithstanding this the footprint of the former school buildings, the assessment of planning proposals in this location is not based on footprint or even volume calculations, such assessments are strictly limited to Metropolitan Green Belt sites, which this site is not one. This proposal involves redevelopment of previously developed land for housing and has to be judged as to the impact of the built development. The proposed density of the scheme (33 dwellings per hectare) is also relatively low, just above the minimum set out in PPS3 of 30 dph. This is not an overintensive form of development.
- 6.4 However, the northern most extent of the site lies outside the recently defined village confines. In particular, plots 16, 17 and 18 and the majority of plots 19, 20, 21, 22 and 23 (the affordable units) lie outside the defined confines. However, they are not as far beyond the extent of the village confines as the PFI units currently under construction either in terms of actual buildings or depth of gardens. The siting of these dwellings has very little impact in the immediate vicinity or in views within the wider landscape. The approved PFI housing scheme will screen these new dwellings from most of the vantage points in the nearby Recreation Ground. Equally the views from Mill Street of the proposed dwellings will not appear any different, as the frontage buildings will predominate in the streetscene. Because of the way this site relates to its surroundings, it will not be readily apparent that part of the development lies outside the defined confines.
- 6.5 I am also aware that when the applicant initially started on this project, the whole of the site was outside the village confines and they were working on the basis of the whole of the site being an exception to the Development Plan. The scheme was in part intended to be enabling development for the new school in Chapman Way, but was also seen as being the redevelopment of previously developed land and a visual enhancement to the locality. These justifications still apply to the current scheme. Indeed the current thrust of Government policy is that the reuse of sites such as this, Previously Developed Land, is strongly encouraged.
- 6.6 The proposed development will also create an access through the development to allow for vehicular access for the Blacklands Scout Group.
- 6.7 In terms of its layout and detailed design, the proposed scheme is of a high quality retaining all the protected trees on the site, whilst also maintaining the open space fronting onto Mill Street, which helps to define the distinctly different character of

this section of Mill Street compared to that of the two nearby Conservation Areas. Additional landscape planting is proposed throughout the scheme and improvements to the existing ragstone walls are also planned. The proposal involves retaining the memorial cross in the proposed rebuilt low level frontage ragstone wall. Its repositioning is to be controlled by condition. The existing low level ragstone wall is a poor example of ragstone walling and the applicant, in association with achieving the sight lines for the new access road, intends to rebuild the wall of a height of 1.2m. Full details of the construction of the ragstone wall can be controlled by condition.

- 6.8 The design of the dwellings, garages and car ports will enhance the character of this section of East Malling and will be a vast improvement compared to the former flat roofed school buildings. The proposed dwellings do respect characteristics of the existing dwellings in the village, whilst not seeking to mimic. The proposed buildings are of local vernacular. The proposed dwellings are arranged in an interesting non regimented fashion, which provides opportunities for a number of the properties to be presented in close proximity to footpaths and roads to reflect the ethos of the East Malling Design Statement. However this has been more difficult to achieve along the Mill Street frontage given part of the site is behind a 1.8m high section of ragstone wall and the desire to retain the trees and green space at the front of the development site. It should also be noted that the applicant intends to erect a pitched roof over the existing substation to enhance its appearance.
- 6.9 The proposed dwellings are to be constructed using an appropriate mix of good quality external materials, examples of all of which can be found in the village. The majority of the dwellings are two storeys in form, apart from 3 units at the rear of the site, which utilise the roof space to provide a third floor of accommodation. However, these 3 units are sited at the back of the site, where the ground level drops away from Mill Street, thereby reducing their visual impact. Full details of the slab levels of all of the dwellings can be controlled by condition. The proposed development will be in keeping with the locality and will enhance the appearance of this vacant site.
- 6.10 The 1.8m high ragstone wall in the south western corner of the application site lies within the Conservation Area. The proposed scheme only seeks to rebuild a section of the wall by the electric substation to ensure that adequate visibility from the main access is achieved. The set back will at the most be 1m behind the current line. Full details of the section of the ragstone wall to be rebuilt can be covered by condition. The proposed scheme will not harm the character or the setting of the Conservation Area and will therefore meet the statutory requirement to preserve or enhance its character and appearance.
- 6.11 The proposed parking provision provides one parking spaces for the one bedroom units, two parking/garage spaces for the 2 and 3 bedroom units and provides a mixture of either two or four parking/garage spaces for the 4no. four bedroom

units. Where the four bedroom units are only provided with two parking spaces there is scope to accommodate a further vehicle in front of other parking spaces. Therefore I am satisfied that the proposal meets the maximum number of spaces required by the Kent Vehicle Parking Spaces (which exceed the previous Government set level of and average of 1.5 per unit). Therefore, no further parking spaces can be justified. Nor indeed is it possible to suggest that the level of provision will lead to on-street parking in the vicinity of the site such as in Mill Street.

- 6.12 The former school site was historically, a significant generator of traffic movements and the proposed 23 dwellings arising from this development will not create significantly greater traffic movements such as might harm highway safety issues. Whilst it is acknowledged that the school traffic movements would be different to the residential use, the key indicator is the peak movements between 08:00 and 09:00. Given the nature of the former school use, there would have been a greater number of traffic movements during this peak time than a residential scheme, even taking into account the PFI housing scheme.
- 6.13 There has been a certain amount of discussion surrounding the desirability of integrating the PFI housing site and this application site through both sites sharing a joint access on Mill Street. Unfortunately this has not been possible due to the development sites working to different time scales, as well as the stated *“substantial compensatory and legal costs associated with delaying the PFI scheme at this stage if a joint access is sought”*. The PFI housing scheme was granted consent back in February 2007, whilst no planning permission yet exists on the current application site or for a new access. The PFI housing scheme was designed to utilise the existing main school vehicular access along the eastern boundary. Local members will also be aware that this PFI housing scheme is currently being built out and that the provision of this assisted living accommodation is under a tight timescale agreed with Government. The head of PFI projects at KCC, David Weiss, has submitted a letter explaining and clarifying the reasons why a joint access is not achievable. Whilst a joint access is not achievable, it has been suggested that there may be a possibility of linking the sites through an internal access road. The proposed layout does not enable such a connection and the applicants have indicated they are unwilling to change the scheme further to accommodate such a change. Notwithstanding the above, there is also no legal or planning requirement for these two sites to be physically connected. It should also be noted that the visibility splays from the existing PFI access is very poor to the east (up to a maximum of 15m visibility splay) and it is not considered that it would not have been desirable to have all traffic movements from this application and the PFI traffic through that access.
- 6.14 The proposed access in the centre of the site is considered by Kent Highway Services to be best location for the proposed housing development, as it achieves the best visibility, whilst ensuring it is not sited in such close proximity to other junctions as to cause a highway hazard. The proposed visibility splays for the new

development will provide 43m in both directions from a 2.4m set back distance. Such visibility splays meet the national standards set out the Manual for Streets in a 30mph zone.

- 6.15 The applicant is also proposing to create a tabled junction as a traffic measure to help reduce vehicular speeds along Mill Street. The tabled junction does not actually require planning permission, any works to the public highway could be carried-out by the KHS under its own development rights. The works are proposed to assist the proposed development to ensuring that vehicles travel slowly through this section of Mill Street in close proximity of the Cottenham Close junction and the access for the new development, to assist drivers entering and exiting these roads. The tabled junction will 75mm (3 inches) in height and finished in red block paving. The small ramps up to the tabled junction are to be granite setts. Highway signage advising of the humps are proposed further along Mill Street, as well as a street light and tactile paving for pedestrian crossing points at Cottenham Close and by the access to the new development. Further details of the visibility splays from Cottenham Close have been sought from the applicant.
- 6.16 The proposed tabled junction has been subject to pre application discussions with KCC Highways. The provision of the tabled junction on highway land will be subject to a separate Section 278 Agreement between the applicant and Kent Highways. The applicant has also indicated that they are applying for an independent Stage 1 Technical Audit for these works to the public highway. Should this audit of the proposed works be agreed before Committee, it will be reported in the supplementary papers.
- 6.17 Members may also be aware that a Traffic Regulation Order at the junction of Cottenham Close is currently under consideration for corner protection and the painting of double yellow lines. This matter falls under separate legislation and should planning permission be granted and Traffic Regulation Order confirmed, then the new road markings would need to be incorporated into the tabled junction. Such matters are not material consideration to the planning consideration of this application.
- 6.18 The PFI housing site utilises an existing access, whilst this application proposes a new access in a better location with highway improvements. Therefore, it would be unreasonable to attempt to refuse the current application on the basis of lack of physical integration or joint access with the PFI site.
- 6.19 The proposed dwellings due to their siting and physical relationship with neighbouring dwellings will not result in the loss of any sunlight or background daylight. The proposed layout ensures that none of the neighbouring dwellings will be unduly harmed from either oppressive or overbearing development in close proximity to their boundaries. In addition, there will be no significant loss of privacy to nearby dwellings, the closest boundary is plot 12 to No.84 Mill Street. There are first floor windows in the rear elevation of plot 12 facing towards the side

elevation of No.84. However, there is an extensive tree belt between these two properties within the control of the neighbouring property. This arrangement is considered appropriate in these circumstances.

- 6.20 The applicant's extended habitat survey has revealed that whilst no protected bats or reptiles were found during the surveys, the habitats within the site could possibly support these species. Therefore, it is recommended that further surveys are carried out relating to the possibility of bats and reptiles using this site. Further surveys can be controlled by condition, ensuring that these surveys and any proposed mitigation is carried out and approved prior to development commencing. KWT raises no objection to this proposed development.
- 6.21 The former Mill Stream school site as a whole is providing 7 PFI assisted living residential units and the 23 houses now proposed. In total 30 residential units will be provided. The 7 PFI housing units are affordable housing and the current application proposes 5 affordable units. In total 12 affordable units will be provided on the former school site, which equates to 40% in compliance with policy CP17 of the TMBCS 2007. It is intended the provision of the affordable units will be secured through a Section 106 Agreement.
- 6.22 The application site area is over 0.4 hectares and is therefore subject to saved policy P8/2 of the Tonbridge and Malling Borough Local Plan 1998. This policy requires the provision of children's play areas and formal play pitches. The applicant has provided an open space at the entrance to the site, however, this is amenity space rather than useable play space and would not meet the policy requirements. The management of this amenity space is an operational matter for the applicant and not a material planning consideration. There is no scope to provide play areas on the site and therefore the applicant will need to provide off site play provision to meet this policy. In this instance, the applicant has been exploring the possibility of reaching an agreement to provide the required provision on the former school playing fields to the rear or alternatively or in combination, there could be an off site contribution to the East Malling recreation ground. This matter can be agreed by a Section 106 obligation.
- 6.23 Developer contributions have also been sought for libraries, youth and community and adult social services, as well as healthcare provision. The applicant has indicated a willingness to accept these contributions apart from the healthcare contribution. The applicant intends to submit a Unilateral Undertaking for Section 106 obligations to deal with these contributions. The PCT has requested contributions for future healthcare provision. The PCT has used the same model for requesting contributions that was found wanting by the Inspector at the Sovereign House appeal in Tonbridge and there is therefore no underlying evidence based justification to seek this contribution nor is there any indication of how the monies would be expended to meet the need of the development. This will allow an independent adjudication to take place.

- 6.24 I am satisfied that the development is acceptable subject to final clarification on certain specific highway details and that on balance there are sufficient special circumstances to allow a number of the proposed dwellings to be located outside the newly designated confines. However, as part of the proposal is a Departure from the Development Plan, it will be necessary to refer this matter to the Secretary of State, particularly given that one of the joint applicants is the County Council.
- 6.25 In light of the above considerations and subject to the application being referred to the Secretary of State as a Departure from the Development Plan and, the applicant providing a Section 106 Planning Obligation I support this proposal.

## **7. Recommendation:**

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: Letter dated 29.10.2008, Letter dated 24.10.2008, Letter dated 27.10.2008, Letter dated 27.10.2008, Schedule dated 26.10.2008, Environmental Assessment dated 26.10.2008, Desk Study Assessment dated 26.10.2008, Supporting Statement dated 26.10.2008, Arboricultural Assessment dated 26.10.2008, Design and Access Statement dated 20.11.2008, Survey 2 OF 3 dated 26.10.2008, Floor Plans And Elevations 289/WT.11 dated 26.10.2008, Floor Plans And Elevations 289/ST.09 dated 26.10.2008, Floor Plans And Elevations 289/TS.13 dated 26.10.2008, Floor Plans And Elevations 289/OS.12 dated 26.10.2008, Street Scenes 289/SS.02 dated 26.10.2008, Floor Plans And Elevations 289/R322.06 dated 26.10.2008, Floor Plans And Elevations 289/NU.08 dated 26.10.2008, Landscaping 289/LA.FEN dated 26.10.2008, Floor Plans And Elevations 289/GA.16 dated 26.10.2008, Floor Plans And Elevations 289/GA.15 dated 26.10.2008, Floor Plans And Elevations 289/BGS.10 dated 26.10.2008, Floor Plans And Elevations 289/ASB.04 dated 26.10.2008, Floor Plans And Elevations 289/AP.03 dated 26.10.2008, Floor Plans And Elevations 289/AG.07 dated 26.10.2008, Floor Plans And Elevations 289/AF14 dated 26.10.2008, Letter SOH/HC dated 20.01.2009, Statement FOUL WATER DRAINAGE REPORT dated 20.01.2009, Survey 2 OF 3 dated 20.01.2009, Schedule of Materials A dated 20.01.2009, Planning Layout 289/01 B dated 20.01.2009, Floor Plans And Elevations 289/WML.05 A dated 20.01.2009, Floor Plans And Elevations 289/BG.17 dated 20.01.2009, Floor Plans And Elevations 289/GA.18 dated 20.01.2009, Plan 289/19 dated 20.01.2009, letter dated the 18 March 2009, letter dated the 23 March 2009, plan 690501/C/01, highway statement received on the 19 March 2009, site plan received on the 23 March 2009, site layout plan 289/01D, plan 690501/C/02, plan 690501/C/03 subject to:
- Referral to the Secretary of State (GOSE) as a Departure from the Development Plan;

- The applicant providing a Section 106 Planning Obligation covering the following matters:
  - the provision of 5 affordable housing units;
  - off site contributions towards childrens play space and outdoor sport;
  - contributions towards libraries, youth and community, adult social services.
- The following conditions:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

- 2 All materials used externally shall accord with the approved plans, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development does not harm the character and appearance of the existing building or visual amenity of the locality.

- 3 No development shall commence until details of a scheme for the storage and screening of refuse has been submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before the development is occupied and shall be retained at all times thereafter.

Reason: To facilitate the collection of refuse and preserve visual amenity.

- 4 The scheme of landscaping and boundary treatment shown on the approved plans shall be carried out in the first planting season following occupation of the buildings or the completion of the development, whichever is the earlier. Any trees or plants which within 10 years of planting 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: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality.

- 5 The use shall not be commenced, nor the premises occupied, until the area shown on the submitted layout as vehicle parking space has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: Development without provision of adequate accommodation for the parking of vehicles is likely to lead to hazardous on-street parking.

- 6 To safeguard the situation in the event that significant deposits of made ground or indicators of potential contamination are discovered during development:

(a) If site significant deposits of made ground or indicators of potential contamination are discovered, the work shall cease immediately and an investigation/remediation strategy shall be agreed with the Local Planning Authority and implemented by the developer.

(b) Any soils and other materials taken for disposal shall be in accordance with the requirements of the Waste Management, Duty of Care Regulations. Any soil brought on site should be clean and a soil chemical analysis shall be provided to verify imported soils are suitable for the proposed use.

(c) A closure report shall be submitted by the developer delineating (a) and (b) above and other relevant issues and responses such as any pollution incident during the development.

Reason: In the interests of amenity and public safety.

- 7 No development shall commence until details of surface water disposal have been submitted to and approved by the Local Planning Authority. The scheme shall be carried out in accordance with the approved details prior to first occupation of the buildings and retained thereafter.

Reason: In the interests of pollution prevention.

- 8 The foul water disposal works shall be implemented in accordance with the approved plans prior to first occupation of the buildings hereby permitted.

Reason: In the interests of pollution prevention.

- 9 No development shall take place until full details of the relocation of the memorial cross and reconstruction of the ragstone wall have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details. Details of the ragstone wall shall include a panel of walling being constructed on site.

Reason: To ensure that the development does not harm the character and appearance of the existing building or visual amenity of the locality.



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- 10 No building shall be occupied until that part of the service road which provides access to it has been constructed in accordance with the approved plans.

Reason: To ensure the safe and free flow of traffic.

- 11 The access drive shall be constructed no steeper than 1 in 14.3 for the first 4.5 metres from the edge of the highway and no steeper than 1 in 8 on any other part.

Reason: To ensure the safe and free flow of traffic.

- 12 The garage(s) shown on the submitted plan shall be kept available at all times for the parking of private motor vehicles.

Reason: Development without the provision of adequate vehicle parking space is likely to lead to hazardous on-street parking.

- 13 No building shall be occupied until the area shown on the submitted plan as turning area has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order), shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved turning area.

Reason: Development without provision of adequate turning facilities is likely to give rise to hazardous conditions in the public highway.

- 14 The access shall not be used until the area of land within the vision splays shown on the approved plans has been reduced in level as necessary and cleared of any obstruction exceeding a height of 1.05 metres above the level of the nearest part of the carriageway. The vision splay so created shall be retained at all times thereafter.

Reason: To ensure the safe and free flow of traffic.

- 15 Before development commences on site, details of the existing and proposed levels of the site and the levels of adjoining land, including the finished floor levels of the buildings to be erected shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To enable the Local Planning Authority to assess adequately the impact of the development on visual and/or residential amenities.

16. Before any works commence on site, further bat and reptile surveys of the site as identified in the Desk Study & Extended Phase 1 Habitat Survey dated July 2008 shall be carried out. Details of the survey and an assessment of the impact of the proposed development and any appropriate alleviation measures shall be

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submitted to and approved by the Local Planning Authority before any works on site are commenced. Such measures shall then be implemented concurrently with the development or in accordance with a programme to be agreed with the Local Planning Authority.

Reason: To ensure that any protected species on the site are satisfactorily protected.

### **Informatives**

- 1 The Local Planning Authority supports the Kent Fire Brigade's wish to reduce the severity of property fires and the number of resulting injuries by the use of sprinkler systems in all new buildings and extensions.
- 2 The Borough Council will need to create new street name(s) for this development together with a new street numbering scheme. To discuss the arrangements for the allocation of new street names and numbers you are asked to write to the Chief Solicitor, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or contact Trevor Bowen, Principal Legal Officer, on 01732 876039 or by e-mail to [trevor.bowen@tmbc.gov.uk](mailto:trevor.bowen@tmbc.gov.uk). To avoid difficulties, for first occupiers, you are advised to do this as soon as possible and, in any event, not less than one month before the new properties are ready for occupation.
- 3 All works to accord with Kent Design and those promoted for adoption to be subject to a highway Legal Agreement.
- 4 No surface water from private areas shall discharge onto the public highway.
- 5 With regard to the construction of the pavement crossing, the applicant is asked to consult The Community Delivery Manager, Kent County Council, Kent Highway Services, Double Day House, St Michaels Close, Aylesford Tel: 08458 247 800.
- 6 The applicant is advised that site clearance works are conducted outside the breeding bird season and replacement nesting opportunities are provided in the landscaping scheme.

Contact: Aaron Hill