

# TONBRIDGE & MALLING BOROUGH COUNCIL



## EXECUTIVE SERVICES

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### Chief Executive

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**NB - This agenda contains proposals, recommendations and options. These do not represent Council policy or decisions until they have received proper consideration through the full decision making process.**

Contact: Committee Services  
[committee.services@tmbc.gov.uk](mailto:committee.services@tmbc.gov.uk)

30 May 2018

To: MEMBERS OF THE AREA 3 PLANNING COMMITTEE  
(Copies to all Members of the Council)

Dear Sir/Madam

Your attendance is requested at a meeting of the Area 3 Planning Committee to be held in the Civic Suite, Gibson Building, Kings Hill, West Malling on Thursday, 7th June, 2018 commencing at 7.30 pm. Deposited plans will be available for Members' inspection for half an hour before the start of the meeting.

Yours faithfully

JULIE BEILBY

Chief Executive

## A G E N D A

### PART 1 - PUBLIC

1. Apologies for Absence
2. Declarations of Interest

3. Minutes 5 - 8

To confirm as a correct record the Minutes of the meeting of Area 3 Planning Committee held on 1 February 2018

**Decisions to be taken by the Committee**

4. Development Control 9 - 12

Introduction and Glossary

5. TM/16/03025/OAEA - Aylesford Newsprint, Bellingham Way, 13 - 68  
Larkfield

6. Urgent Items

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

**Matters for consideration in Private**

**PART 2 - PRIVATE**

7. Exclusion of Press and Public 69 - 70

The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

8. Urgent Items

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

## **MEMBERSHIP**

Cllr M Parry-Waller (Chairman)  
Cllr M C Base (Vice-Chairman)

Cllr Mrs S Bell  
Cllr T Bishop  
Cllr Mrs B A Brown  
Cllr T I B Cannon  
Cllr R W Dalton  
Cllr D A S Davis  
Cllr Mrs T Dean  
Cllr S M Hammond  
Cllr D Keeley

Cllr D Keers  
Cllr S M King  
Cllr D Lettington  
Cllr D Markham  
Cllr Mrs A S Oakley  
Cllr R V Roud  
Cllr A K Sullivan  
Cllr B W Walker  
Cllr T C Walker

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## TONBRIDGE AND MALLING BOROUGH COUNCIL

### AREA 3 PLANNING COMMITTEE

Thursday, 1st February, 2018

**Present:** Cllr M Parry-Waller (Chairman), Cllr D Markham (Vice-Chairman), Cllr M C Base, Cllr Mrs S Bell, Cllr T Bishop, Cllr Mrs B A Brown, Cllr T I B Cannon, Cllr R W Dalton, Cllr D A S Davis, Cllr D Keeley, Cllr S M King, Cllr Mrs A S Oakley, Cllr R V Roud and Cllr T C Walker

Councillors N J Heslop and H S Rogers were also present pursuant to Council Procedure Rule No 15.21.

Apologies for absence were received from Councillors S M Hammond, D Keers, D Lettington, A K Sullivan and B W Walker

### PART 1 - PUBLIC

#### **AP3 18/8 DECLARATIONS OF INTEREST**

There were no declarations of interest made in accordance with the Code of Conduct.

#### **AP3 18/9 MINUTES**

**RESOLVED:** That the Minutes of the meeting of the Area 3 Planning Committee held on 4 January 2018 be approved as a correct record and signed by the Chairman.

### DECISIONS TAKEN UNDER DELEGATED POWERS IN ACCORDANCE WITH PARAGRAPH 3, PART 3 OF THE CONSTITUTION

#### **AP3 18/10 DEVELOPMENT CONTROL**

Decisions were taken on the following applications subject to the pre-requisites, informatives, conditions or reasons for refusal set out in the report of the Director of Planning, Housing and Environmental Health or in the variations indicated below. Any supplementary reports were tabled at the meeting.

Members of the public addressed the meeting where the required notice had been given and their comments were taken into account by the Committee when determining the application. Speakers are listed under the relevant planning application shown below.

**AP3 18/11 TM/17/02655/FL - LAND WEST OF ROCHESTER ROAD,  
ROCHESTER**

Hybrid planning application (land west of Rochester Road, Rochester):

- (A) Full planning application for the creation of a new vehicular access to Rochester Road, the erection of buildings with up to 2,226sqm of floor space for storage, distribution use and wholesale trade distribution (Class B8) and/or use for general industry (Class B2) including layout of internal road and hardstanding with the installation of services (Phase 1)
- (B) Outline planning application with all matters except access reserved, for the erection of buildings with up to 2,021sqm of floor space for use with storage, distribution, wholesale trade distribution (Class B8), general industry (Class B2) and/or offices (Class B1) including the change of use of up to 1,470sqm of open land to storage and distribution (Class B8) and the layout of internal roads and hardstanding with the installation of services (Phase 2)

**RESOLVED:** That planning permission be GRANTED in accordance with the submitted details, conditions, reasons and informatives set out in the report of the Director of Planning, Housing and Environmental Health, subject to

(1) Additional Condition:

22. No development in any phase shall commence until a construction management plan for that phase has been submitted to and approved in writing by the Local Planning Authority. The construction of the development of the relevant phase shall thereafter take place in strict accordance with the plan approved for that phase.

Reason: To ensure the safe and free flow of traffic

(2) Amended Conditions:

5. No development of any phase of the development shall take place above ground level, until such time that a scheme of hard and soft landscaping and boundary treatment in that phase including a scheme for the future management of the communal open spaces has been submitted to and approved by the Local Planning Authority. The scheme of soft landscaping shall be designed to enhance the existing boundary screening of the site wherever possible, particularly the northern site boundary. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following occupation of the buildings or the completion of the development comprised in the relevant phase of the development, whichever is the earlier. Any trees or shrubs removed, dying, being seriously damaged or diseased within 10 years of planting

shall be replaced in the next planting season with trees or shrubs of similar size and species, unless the Authority gives written consent to any variation. Any boundary fences or walls or similar structures as may be approved shall be erected before first occupation of the building to which they relate.

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.

6. No development in any phase of development, other than that expressly required in compliance with conditions 19 and 22, shall commence on site until such time as the design, materials and construction methods to be adopted for the proposed works (hardstanding, drainage, safety and other boundary treatment) in the vicinity of the site boundary with the M2 have been submitted to, and agreed in writing by, the Local Planning Authority. All works shall be compliant with the Design Manual for Roads and Bridges.

Reason: To ensure that the M2 Motorway continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety.

14. No development in any phase of development, other than that expressly required in compliance with conditions 19 and 22, shall commence until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based on the proposals documented in the Flood Risk Assessment, prepared by The Civil Engineering Practice, Sept. 2017, and demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of within the curtilage of the site without increase to flood risk on or off-site. The drainage scheme shall also demonstrate that silt and pollutants resulting from the site use and construction can be adequately managed to ensure there is no pollution risk to receiving waters.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding.

19. No development of any phase of the development (or part thereof) shall take place other than as required as part of the cut and fill re-profiling and site, below ground works and investigation works until the following have been submitted to and approved by the Local Planning Authority:

(a) results of the site investigations (including any necessary intrusive investigations) and a risk assessment of the degree and nature of any contamination on site and the impact on human health, controlled waters and the wider environment. These results shall include a detailed remediation method statement informed by the site investigation results and associated risk assessment, which details how the particular phase of development (or part thereof) will be made suitable for its approved end use through removal or mitigation measures. The method statement must include details of all works to be undertaken, proposed remediation objectives, remediation criteria, timetable of works and site management procedures. The scheme must ensure that the particular phase of development (or part thereof) cannot be determined as Contaminated Land as defined under Part 2A of the Environmental Protection Act 1990 (or as otherwise amended). The submitted scheme shall include details of arrangements for responding to any discovery of unforeseen contamination during the undertaking hereby permitted. Such arrangements shall include a requirement to notify the Local Planning Authority in writing of the presence of any such unforeseen contamination along with a timetable of works to be undertaken to make the site suitable for its approved end use.

(b) prior to the commencement of each phase of the development (or part thereof) the relevant approved remediation scheme shall be carried out as approved. The Local Planning Authority should be given a minimum of two weeks written notification of the commencement of the remediation scheme works.

Reason: In the interests of amenity, public safety and human health and in accordance with the National Planning Policy Framework 2012 (paragraph 121).

## **PART 2 - PRIVATE**

### **AP3 18/12 EXCLUSION OF PRESS AND PUBLIC**

There were no items considered in private.

The meeting ended at 7.40 pm



## TONBRIDGE & MALLING BOROUGH COUNCIL

### AREA PLANNING COMMITTEES

#### Report of the Director of Planning, Housing & Environmental Health

#### Part I – Public

#### Section A – For Decision

#### DEVELOPMENT CONTROL

In accordance with the Local Government Access to Information Act 1985 and the Local Government Act 1972 (as amended), copies of background papers, including representations in respect of applications to be determined at the meeting, are available for inspection at Planning Services, Gibson Building, Gibson Drive, Kings Hill from 08.30 hrs until 17.00 hrs on the five working days which precede the date of this meeting.

Members are invited to inspect the full text of representations received prior to the commencement of the meeting.

Local residents' consultations and responses are set out in an abbreviated format meaning: *(number of letters despatched/number raising no objection (X)/raising objection (R)/in support (S))*.

All applications may be determined by this Committee unless (a) the decision would be in fundamental conflict with the plans and strategies which together comprise the Development Plan; or (b) in order to comply with Rule 15.24 of the Council and Committee Procedure Rules.

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#### GLOSSARY of Abbreviations and Application types

#### used in reports to Area Planning Committees as at 23 September 2015

AAP	Area of Archaeological Potential
AODN	Above Ordnance Datum, Newlyn
AONB	Area of Outstanding Natural Beauty
APC1	Area 1 Planning Committee
APC2	Area 2 Planning Committee
APC3	Area 3 Planning Committee
ASC	Area of Special Character
BPN	Building Preservation Notice
BRE	Building Research Establishment
CA	Conservation Area
CPRE	Council for the Protection of Rural England
DEFRA	Department for the Environment, Food and Rural Affairs

DETR	Department of the Environment, Transport & the Regions
DCLG	Department for Communities and Local Government
DCMS	Department for Culture, the Media and Sport
DLADPD	Development Land Allocations Development Plan Document
DMPO	Development Management Procedure Order
DPD	Development Plan Document
DPHEH	Director of Planning, Housing & Environmental Health
DSSL	Director of Street Scene & Leisure
EA	Environment Agency
EH	English Heritage
EMCG	East Malling Conservation Group
FRA	Flood Risk Assessment
GDPO	Town & Country Planning (General Development Procedure) Order 2015
GPDO	Town & Country Planning (General Permitted Development) Order 2015
HA	Highways Agency
HSE	Health and Safety Executive
HMU	Highways Management Unit
KCC	Kent County Council
KCCVPS	Kent County Council Vehicle Parking Standards
KDD	Kent Design (KCC) (a document dealing with housing/road design)
KWT	Kent Wildlife Trust
LB	Listed Building (Grade I, II* or II)
LDF	Local Development Framework
LLFA	Lead Local Flood Authority
LMIDB	Lower Medway Internal Drainage Board
LPA	Local Planning Authority
LWS	Local Wildlife Site
MAFF	Ministry of Agriculture, Fisheries and Food
MBC	Maidstone Borough Council
MC	Medway Council (Medway Towns Unitary Authority)
MCA	Mineral Consultation Area
MDEDPD	Managing Development and the Environment Development Plan Document
MGB	Metropolitan Green Belt
MKWC	Mid Kent Water Company
MWLP	Minerals & Waste Local Plan
NE	Natural England
NPPF	National Planning Policy Framework
PC	Parish Council
PD	Permitted Development
POS	Public Open Space
PPG	Planning Policy Guidance
PROW	Public Right Of Way

SDC	Sevenoaks District Council
SEW	South East Water
SFRA	Strategic Flood Risk Assessment (prepared as background to the LDF)
SNCI	Site of Nature Conservation Interest
SPAB	Society for the Protection of Ancient Buildings
SPD	Supplementary Planning Document (a statutory policy document supplementary to the LDF)
SPN	Form of Statutory Public Notice
SSSI	Site of Special Scientific Interest
SWS	Southern Water Services
TC	Town Council
TCAAP	Tonbridge Town Centre Area Action Plan
TCS	Tonbridge Civic Society
TMBC	Tonbridge & Malling Borough Council
TMBCS	Tonbridge & Malling Borough Core Strategy (part of the Local Development Framework)
TMBLP	Tonbridge & Malling Borough Local Plan
TWBC	Tunbridge Wells Borough Council
UCO	Town and Country Planning Use Classes Order 1987 (as amended)
UMIDB	Upper Medway Internal Drainage Board
WLP	Waste Local Plan (KCC)
AGPN/AGN	Prior Notification: Agriculture
AT	Advertisement
CA	Conservation Area Consent (determined by Secretary of State if made by KCC or TMBC)
CAX	Conservation Area Consent: Extension of Time
CNA	Consultation by Neighbouring Authority
CR3	County Regulation 3 (KCC determined)
CR4	County Regulation 4
DEPN	Prior Notification: Demolition
DR3	District Regulation 3
DR4	District Regulation 4
EL	Electricity
ELB	Ecclesiastical Exemption Consultation (Listed Building)
ELEX	Overhead Lines (Exemptions)
FC	Felling Licence
FL	Full Application
FLX	Full Application: Extension of Time
FLEA	Full Application with Environmental Assessment
FOPN	Prior Notification: Forestry
GOV	Consultation on Government Development
HN	Hedgerow Removal Notice
HSC	Hazardous Substances Consent

LB	Listed Building Consent (determined by Secretary of State if made by KCC or TMBC)
LBX	Listed Building Consent: Extension of Time
LCA	Land Compensation Act - Certificate of Appropriate Alternative Development
LDE	Lawful Development Certificate: Existing Use or Development
LDP	Lawful Development Certificate: Proposed Use or Development
LRD	Listed Building Consent Reserved Details
MIN	Mineral Planning Application (KCC determined)
NMA	Non Material Amendment
OA	Outline Application
OAEA	Outline Application with Environment Assessment
OAX	Outline Application: Extension of Time
RD	Reserved Details
RM	Reserved Matters (redefined by Regulation from August 2006)
TEPN56/TEN	Prior Notification: Telecoms
TNCA	Notification: Trees in Conservation Areas
TPOC	Trees subject to TPO
TRD	Tree Consent Reserved Details
TWA	Transport & Works Act 1992 (determined by Secretary of State)
WAS	Waste Disposal Planning Application (KCC determined)
WG	Woodland Grant Scheme Application

**Ditton**  
Ditton

**10 October 2016**

**TM/16/03025/OAEA**

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Proposal: Outline Application for mixed use development comprising up to 120,500 sqm of B1, B2 and B8 employment space (GEA) and 79,000 sqm of residential land capable of accommodating up to 450 residential dwellings, including affordable housing, land for a two form entry school and a dedicated community facility, with appearance and landscaping reserved for future consideration

Location: Aylesford Newsprint Bellingham Way Larkfield Aylesford Kent ME20 7DL

Go to: [Recommendation](#)

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## **1. Description:**

- 1.1 Outline planning permission is sought for the redevelopment of the former Aylesford Newsprint site to create a mixed residential and employment development, with dedicated community facility and land allocated for a primary school. The outline planning application seeks approval for matters relating to access, layout and scale, with matters relating to appearance and landscaping reserved for future consideration. The application states that the masterplan framework has been designed to create what they described as being “an exemplar new community” in place of the former Aylesford Newsprint.
- 1.2 The submission documents make reference to two masterplans. The applicant’s ‘preferred masterplan’ does not include the provision of land for a primary school, but their ‘alternative masterplan’ expressly allocates land to the southern part of the site for a two form entry primary school.
- 1.3 The central and northern parts of the site to the west of the railway line are proposed to be developed for commercial/employment purposes. These are designed to provide up to 120,000 square metres of commercial/employment development. It is proposed to subdivide the area into five blocks, separated by roads. The application is based on an approximate 10% B1(a) (Offices), 30% B1 (c) (light industrial), 30% B2 (general industrial) and 30% B8 (storage and distribution) land use split. The proposed building height for the commercial/employment development and ranges between single and two storey.
- 1.4 Residential development is proposed in three locations at a density of 61 dwellings per hectare, (30 dwellings per hectare if open space is included). A “Residential Gateway” is proposed in the south west of the site with dwellings placed adjacent to the main access spine road. The “Residential Quarter” is proposed in the south east of the site. This area includes proposals for the enhanced Ditton Stream with the opportunity for a shop, health centre or other community facility. The

“Riverside” is proposed between the railway and the river with development being proposed along a landscaped river path with raised ground levels and other flood resilience measures.

- 1.5 The proposal includes the provision of open space integral to the layout of the development overall. Specifically, a “Green Spine Park” is proposed to the south of the commercial development between the residential areas. This area comprises a landscaped park, community gardens and sports pitches. A riverside walk is also proposed. The enhancement of Ditton Stream and Pond is intended to create a wetland corridor which will link to other green corridors designed to enhance wildlife throughout the site.
- 1.6 The proposed development falls within Schedule 2 10 (a) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (later amended by the Town and Country Planning (Environmental Impact Assessment) Regulations 2017) and as such has been subject to Environmental Impact Assessment (EIA).
- 1.7 As such, an Environmental Statement (ES) has been submitted as part of the planning application. This is prepared to assess the environmental effects of the development in line with the statutory requirements contained within the Regulations. The purpose of the ES is to inform decision making by explaining the likely significant effects that the development may have on the environment during construction and once it is complete and how they can be avoided or reduced. The EIA has been informed by a series of technical studies which form part of the ES. These studies include surveys, calculations and other forms of modelling as necessary.
- 1.8 An ES is intended to consider the likely effects of the development on its neighbours, local environment, local and regional economy, as well as the wider area. The environmental effects of the development are to be predicted in relation to sensitive receptors, including human beings, built resources and natural resources. The sensitive receptors considered in the ES should include local residents and businesses, heritage assets and designations, road users, construction workers and future occupiers of the site.
- 1.9 Each topic assessment is designed to attach a level of significance to the identified effects (both positive and negative), i.e. either major, moderate, minor or negligible. Short and long-term (temporary and permanent), direct and indirect effects have been assessed. The EIA Regulations require that ‘cumulative’ effects are also considered in the ES. ‘Residual effects’ are defined as those that remain after mitigation measures have been implemented.
- 1.10 The contents and conclusions contained within the ES are considered throughout the detailed assessment of the scheme which follows.

1.11 In addition, a number of other supporting plans and documents have been submitted throughout the course of the assessment of the application. These have been submitted in part in response to representations received during the process and are upon which the basis of the assessment and recommendation are made.

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

2.1 Due to the fundamental conflict with the Development Plan and a requirement to balance between diverging and significant policy considerations.

2.2 Members should be aware that in the event that the recommendation by Officers to refuse to grant planning permission is not supported, full detailed reasons for this must be provided by APC3 with the application then reserved for determination by Council.

2.3 In the event that Council then granted planning permission, this would be subject to referral to the Secretary of State in accordance with the Town and Country Planning (Consultation) (England) Direction 2009.

**3. The Site:**

3.1 The application site comprises 43.9 hectares in total. The site is bounded to the east by the River Medway and bisected by the Paddock Wood to Strood rail line. Aylesford station lies to the south east of the site, and New Hythe Station lies to the north. The site is bounded to the south by the M20. The residential settlement of Aylesford lies to the east, Ditton to the south and Larkfield to the west.

3.2 The site lies within an area safeguarded for employment purposes designated in Policy E1 (d) of the MDE DPD 2010. For clarity the site does not lie within a CA or contain any listed buildings. There are no ecological or landscape designations. Although not abutting the site, an SSSI lies to the north and the AONB lies to the north east.

3.3 The site has a long history of industrial use. The site comprised a number of large buildings in a mix of brick and steel, smaller ancillary office buildings, a Combined Heat and Power (CHP) plant with ancillary water treatment works, pumping stations, storage tanks and a water and effluent water treatment plant. Planning permission was granted for site clearance and the demolition of all buildings and structures down to slab level under planning application TM/17/00493/FLEA on 24 April 2017. Demolition works have commenced but to date have not been completed.

3.4 The site lies within Flood Zones 2 and 3 and is vulnerable to fluvial and tidal flooding. The site is also located within a Groundwater Source Protection Zone (SPZ).

- 3.5 Parts of the site are heavily contaminated as a result of its long history of industrial use. In particular, the land adjacent to the river and the water treatment works which has been used as a sludge bed and subsequently for landfill for the CHP plant, and an area in the west of the site following a diesel oil spill in 2001.
- 3.6 The southern end of the site comprises car parks and a clean water reservoir, with Ditton stream flowing from the south. The M20 lies to the south of the site. This follows Ditton Stream, with Cobdown Woods to the west. The mature trees adjacent to this area are protected by Tree Preservation Orders (TPOs).
- 3.7 A number of public footpaths are routed through the site. MR492 runs from Station Road north into the application site via a footbridge over the M20, before heading east along the southern side of the site. MR91 runs parallel with the railway line, and MR443 runs parallel with the western river bank. A further path MR491 lies to the south of the site.

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

- 4.1 The site has an extensive planning history relating to its former industrial use. For the purposes of this report only those most recent applications are listed below.

TM/16/00746/EASP	EIA opinion scoping application	6 April 2016
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Request for a Scoping Opinion under Town and Country Planning (Environmental Impact Assessment) Regulations 2011 regarding the redevelopment of the former Aylesford Newsprint site

TM/16/03495/EASC	screening opinion EIA required	13 December 2016
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Request for screening opinion under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 for the demolition of all buildings to ground level

TM/16/03597/EASP	EIA opinion scoping application	5 January 2017
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Request for Scoping Opinion under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 for the demolition of all buildings to ground level

TM/17/00493/FLEA	Approved with conditions	24 April 2017
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Site clearance and demolition of all buildings and structures on site down to slab level (no earth works) with the exception of ancillary infrastructure including borewell pumphouses, substations and the security office. Infilling of voids left from infrastructure removal

## 5. Consultees:

DPHEH: It should be noted that during the course of the assessment of this application, a number of statutory and other consultees have made multiple representations on the original submission and subsequently submitted amended and additional information. For the avoidance of any doubt, unless otherwise stated, the most recent representations from statutory consultees are reproduced in full below as it is upon this basis that conclusions have been drawn. Where expressly referenced, other representations have been summarised to avoid confusion arising but the full versions are publically available via the planning register.

5.1 KCC (H+T): (04.05.18) I have considered the comments and have taken advice from our traffic signals team and public transport team and my response below refers to the [submitted TA] Addendum paragraph numbers for ease of reference:

[2.1.4] Concerns relating to the access arrangements to the 63 homes located on the eastern side of the railway line can be addressed as suggested by condition:

- Access from New Hythe Lane to be widened and improved to adoptable standard. Pedestrian, cycle and emergency access to be provided from this area to Mill Hall to the south;
- Pedestrian/cycle access to be provided along the towpath;
- Links to be provided between the pedestrian and cycling facilities on site and existing routes.

[2.1.6] Confirmed that mitigating measures can be linked to traffic numbers and trips generated. A monitoring fee will be required, secured in the S106 Agreement.

[2.1.8] Confirmed that footways on Leybourne Way and at the roundabout with Bellingham Way/New Hythe Lane are to be included in the mitigating measures as shown on drawing number A13145-C-103-2-C inset D

[2.1.9] Bus services – to be included as a condition/S106 for enhancements to the bus services as agreed by our public transport team and bus operators. Initial discussions indicate that there will be a requirement for a service to West Malling station and enhancements to existing services to and from Maidstone with possible links to Larkfield Leisure Centre. Use of ultra-low emission service

vehicles has been suggested as mitigation for air quality impact and this is supported by the public transport team.

Electric vehicle charging points are required as a condition on any planning consent with charging points provided for each new home with a driveway/garage and at a level of 10% of car parking provision for communal parking areas with 10% additional passive charging provision to allow conversion later.

[2.1.11] A228/Leybourne Way - The concerns raised regarding the road safety audit for the proposed extended right turn lane from the A228 to Leybourne Way have been addressed in Appendix 2-Drg: A13145-C-103.

[2.1.12] Leybourne Way Highway boundary plans - Highway boundary drawing has been provided in respect of the proposed improvements along Leybourne Way and are shown on drawing number A13145-C-104-A. Please note bank stabilisation and potentially new crash barriers will be required if found to be necessary.

[2.1.13/2.1.14] Leybourne Way signalised junctions - Network linkage and signal optimisation of junctions along Leybourne Way to be provided at detailed stage.

[2.1.15 /2.1.18] Station Road/Hall Road tracking diagrams show the right turn from Station Road to Hall Road no longer overruns the kerb. Highway mitigation agreed to be provided at the opening of the link road and this includes the signalisation of the junction as shown in principle on drawing number Drg.A13145-C-103-2-D

[2.1.19] A228/Ashton Way - Additional modelling has been completed for this junction and the results indicate that the impact of the development with the school is modest and the degree of saturation less than 100% in the 2031 scenario. This junction has been included in the A20 Corridor Forecast Junctions Assessments prepared as evidence for the new Tonbridge & Malling local plan. The results of the capacity assessment for this junction indicate that there is sufficient capacity to accommodate the local plan allocations (which include the Aylesford Newsprint site) in 2031.

[2.1.24] A20/Hall Road/Mills Road - The Transport Assessment indicates a significant reduction in capacity as a result of the development.

Worst degree of saturation	2031 with B2	2031 with dev + mitigation	2031 with dev + mitigation + school
AM Peak	170.6%	263%	126.1%
PM Peak	153.8%	194.2%	250%

The junction is included in the A20 Corridor Forecast Junction Assessments prepared as evidence for the new Tonbridge and Malling local plan. The results of this assessment indicate that this junction will be over capacity in 2031 Do Minimum and Do Something scenarios. Mitigating measures are being

investigated however there is no outline design or scheme cost available at the present time.

[2.1.25] A20/Hermitage Lane junction - The Transport Assessment indicates a significant reduction in capacity as a result of the development.

Worst degree of saturation	2031 with B2	2031 with dev + mitigation	2031 with dev + mitigation + school
AM Peak	198.3%	207.3%	240%
PM Peak	215.8%	182.4%	178.6%

The junction is included in the in the Forecast Junction Assessments for the A20 corridor. The results indicate that this junction will be over capacity in the Do Minimum scenario, which is 2031 without local plan allocations, but is improved in the Do Something scenario, 2031 with local plan allocations and new infrastructure, by the provision of a new road link between A20 and Hermitage Lane. Unfortunately, the delivery of that new infrastructure is outside of the applicant's control and is subject to a separate planning application which at the present time is undetermined.

A20/Coldharbour Lane - The capacity at this junction in the future with development scenario is a cause for concern.

Worst degree of saturation	2031 with B2	2031 with dev + mitigation	2031 with dev + mitigation + school
AM Peak	96.1%	92.9%	93.3%
PM Peak	117.2%	118.8%	123.6%

A highway improvement scheme to increase the size and capacity of this roundabout is planned for delivery 2019 and a business case has been submitted to LEP. Until the business case is approved there is no certainty that the scheme can be delivered.

M20 junction 5 has been included in the Forecast Junction Assessments for the A20 corridor and the results indicate that this grade separated junction has sufficient capacity in the Do something scenario and this includes the Aylesford Newsprint application traffic flows.

[2.1.26] M20 junction 4 eastbound off slip - The Transport Assessment indicates a significant reduction in capacity as a result of the development in the PM peak.

Worst degree of saturation	2031 with B2	2031 with dev + mitigation	2031 with dev + mitigation + school
AM Peak	83.1%	85.5%	88.1%
PM Peak	94.9%	122.1%	127.2%

M20 junction 4 has been included in the Forecast Junction Assessments for the A20 corridor and the M20 jn 4 eastbound off slip is over capacity in the PM peak in the Do Minimum scenario and this worsens in the Do Something scenario.

Mitigating measures should be explored to identify capacity improvements for the traffic from M20 west to A228 north.

[2.1.27] M2 Jn2 - An assessment has been completed of M2 Junction jn 2 and improvements are proposed.

[2.1.28] Station Road/New Link Road - A Safety audit is provided at Appendix 8 page 2110. Further attention should be given to problem 16 turning from link road to Station Road, tracking appears to be tight and it may not be possible to move the refuge. This route is likely to be used by buses and therefore additional tracking for buses should be provided. Problem 18 forward visibility measurements are required, both distance and speeds.

[2.1.29] Aylesford Level Crossing on Station Road - Site observations and detailed modelling has been provided.

[2.1.42] A228/Leybourne Way safety audit - Additional information confirms that the design accords with the relevant design standards.

I have reviewed the information provided and although this addresses many of the concerns initially raised, there are some key junctions where the development will result in a severe impact on highway capacity but mitigating measures are not proposed. These junctions are as follows:

- Coldharbour Lane/A20;
- A20/Hermitage Lane;
- A20/Mills Road/Hall Road;
- M20 Jn4

Highway improvements are being pursued [by the County] but unfortunately at the present time there is no certainty that these schemes can be delivered. Without this certainty I am not able to find the application acceptable.

5.2 HE: Highways England will be concerned with proposals that have the potential to impact on the safe and efficient operation of the Strategic Road Network (SRN), in this case, the M2 Junction 2 and M20 Junctions 4 and 5. We have the following comments.

#### M2 Junction 2 - M2 Junction 2 modelling files

5.2.1 The modelling files resubmitted do not always contain descriptions of arms or which junction the modelling pertains to. The Arm descriptions on pages 18 and 19 (Table 3-1 in particular) of the response document are not consistent with the model files. Sometimes there are only two entry arms whereas this is not shown in Table 3-1, and the numbers for the arms in Table 3-1 when this occurs are incorrect. There also seems to be a lot of u turning traffic in the modelling or traffic

exiting the motorway only to head back onto the motorway in the same direction. Can it be confirmed that this is the case from count data? This was not present in previous model results where it was stated that there was no u turning so the differences need explanation.

5.2.2 Notwithstanding this we have attempted to interpret and assess the modelling. We are assuming that the u turning and on/off movements are incorrect but they are not the main foci of the modelling review. Firstly, note that at the roundabouts it is unlikely that traffic on the M2 southbound and northbound off slips will form two lanes at the stop lines as they are all theoretically turning in the same direction (unless the u turns and off/on behaviour queried above is correct). Therefore, the modelled RFC values presented for the off slips will be lower than would actually occur in reality. For the M2 southbound off slip at the eastern roundabout the entry width should be adjusted to reflect single lane use in the modelling (as most likely occurs in reality) or further evidence supplied to demonstrate how a two-lane entry from the eastern roundabout merges into a 1 lane approach to the western roundabout as the present mitigation shown in diagrams SK01 and SK02 does not show a merge and will need amendment prior to our safety review. Also, where the mitigation shows one lane westbound between the two roundabouts, we can see no modelling at the westbound junction of this scenario (entry width 11m). For the westbound off slip the two-lane approach mitigation may need further explanation to clarify how two lanes of traffic (effectively all of the off slip traffic) will be turning left to the A228 approach road (Drawing SK03). How will this be made to work in reality?

5.2.3 We are unable to replicate some of the junction geometry shown at the western roundabout. In some instances (for example entry widths) the values used in the modelling appear generous, wider than the circulatory width which is not permissible. Notwithstanding the comments above about the widths and the possible use of one lane when the width has space for two, we require diagrams showing the geometry used in the modelling to demonstrate that the modelled geometry is correct.

5.2.4 As a general comment there are too many modelling scenarios presented and it is difficult to distinguish one scenario from another. We request that the applicant submits only those scenarios that are for the full build out compared to the scenario without the build out at future year when the build out is complete. This will save needless hours in the first instance of sorting through non-essential scenarios. Model files should also be fully labelled

5.2.5 The additional development traffic and proposed mitigation for the M2 westbound off slip has raised a new concern of potential blocking back from the A228 roundabout to the M2 western roundabout in the morning peak hour. This junction currently experiences congestion during the morning peak hour. By or before 2031 it is possible that any mitigation for the M2 westbound off slip during the morning peak will be erased by queueing back from the A228 roundabout, preventing the

proposed mitigation from making any difference to the queues on the westbound off slip. The applicants will therefore need to demonstrate that no blocking back occurs from the A228 roundabout to the western M2 roundabout or propose additional mitigation if blocking back does occur. We will also be alerting Medway Council of the issue as this raises a potential concern for the local road network and they may wish to comment as the relevant highway authority.

Details of proposed mitigation of severe impact on M2 Junction 2 Westbound Off-slip

- The new addendum includes 4 x sketches relating to proposed mitigation. Sketches 1 and 2 shows the position of the northbound off slip to allow left turn flow to the A228. This design includes hatchings – reducing circulating lanes on the bridge from two to one;
- Sketches 3 and 4 show the suggested improvements to the northbound off-slip and southbound on-slip – increasing entry widths and flare lengths;
- Swept paths are also tested in both cases

5.2.6 The two mitigation options mentioned above (referred to in the new addendum as Mitigation 1 and Mitigation 2) have been modelling in ARCADY.

- The roundabouts have been tested for 2026 and 2031 forecast traffic figures for with and without Newsprint Development;
- Mitigation 1 (free-flow left turn) modelling highlights a maximum RFC of 73% for the 2031 with development scenario;
- Mitigation 2 modelling highlights a maximum RFC of 89% (in the 2031 with development scenario);
- The new addendum considers that the junction “possibly experiences issues now,” and, in the future, will experience further issues due to background traffic growth, “not development traffic.”
- The addendum concludes that the applicant’s commitment to provide funding for mitigation measures commensurate with an agreed impact, “be sufficient to enable condition consent to reflect such.”
- Note that the ARCADY modelling requires revisions and clarifications (see (1) above)

5.2.7 A Stage 1 RSA audit has been carried out for each Mitigation 1 and Mitigation 2.

- The addendum details that the recommendations made by the audit teams have been noted and will be taken into consideration during the detailed design phase.

- The full audit and the CVs of the auditors are available on the planning portal as part of 'Part 3 transport assessment' (22/02/2018).

5.2.8A HD42/17 Walking, Cycling and Horse Riding Assessment and Review has not been carried out;

5.2.9 No reason for not carrying this out has been provided and we therefore continue to await this information

5.2.10 We await resolution of the modelling before commencing the safety and design assessments, plus await information on the omissions mentioned above

M20 Junction 4 - Model check required

5.2.11 We have the following comments:

5.2.12 Saturation flow values have been increased on many sections since the previous modelling. Can justification be supplied for the new values?

5.2.13 Some of the linkages in the modelling appear to be incorrect. For example, all traffic from the M20 eastbound off slip onto the circulatory sections of the roundabout will be right turning. However, one of the linkages is to a downstream circulatory link from which the traffic is exiting back onto the M20 at the eastbound on slip rather than going around the roundabout. This is counter intuitive and needs justification or confirmation that this is occurring along with the volumes of traffic making this movement.

5.2.14 Additionally, the origin destination flows cannot be checked in the modelling as the network layout diagrams in the Linsig outputs are unreadable. Readable Linsigs should be supplied for the worst case scenarios with and without proposed development for the full build out year presumably 2031

5.2.15 Further to previous comments, some circulatory sections still have queues that would extend back and prevent circulatory traffic upstream from exiting the roundabout or prevent entry arm traffic from entering the circulatory carriageway. In effect this would add queues and delays that have not been modelled. Mean maximum queue lengths on circulatory sections need to be noticeably shorter than the available queueing space as mentioned in previous correspondence. This is most prevalent on the circulatory carriageway between the M20 eastbound on and off slips.

5.2.16 We previously commented that given the size of the model, it is possible that there is some traffic not getting through the network due to a lack of capacity. Can it be confirmed whether the full demand is being modelled at M20 Junction 4 or whether demand is being blocked from reaching the junction. If the latter is true, how many trips are being prevented from reaching M20 Junction 4 in the modelling for 2031? We have not received an answer to this query

5.2.17 These issues need resolution and the modelling resubmitted for our review as we are unable to sensibly form an opinion on the assessment.

5.2.18 As a general comment there are too many scenarios presented and it is difficult to distinguish one scenario from another. We request that the applicant submits only those scenarios that are for the full build out compared to the scenario without the build out at future year when the build out is complete. This will save needless hours in the first instance of sorting through non-essential scenarios. Should any mitigation be required for the full development we can then look at interim year assessments to establish when mitigation will need to be implemented.

5.2.19 Comments have been made that the applicant's consultants consider some issues to be detailed design that can be resolved at a later date. We do not agree with this opinion and therefore require issues to be resolved prior to the granting of any outline consent.

5.2.20 We have recently been made aware of additional evidence held by Kent County Council in relation to the impacts at M20 Junction 4 that we understand is contrary to the findings concerning the impacts of the development traffic upon the junction. We therefore also need to consider this evidence before forming a view as to the most robust assessment of the likely impacts at the junction. We are in the process of arranging to meet with KCC concerning this issue and will write to you when we have a clearer picture.

[DPHEH – no further information is available indicating if or when this meeting has taken place. If any more information becomes available it will be reported as a supplementary matter.]

5.2.21 M20 Junction 5 Modelling files required – The previous assessment provided summary modelling results for this junction only. We required copies of the modelling files so we could examine the junction modelling in more detail. The PDF model output files were not very clear, as the scenarios used do not match up to the PDF file names and therefore we cannot be sure that we are assessing the right model. The model scenarios should be changed to reflect which scenario has been modelled. – comment resolved.

5.2.22 Furthermore, the arms of the junction in the model should be clearly labelled so a full assessment of the model can be made. It would be helpful if the model diagram was included in the model output file. – comment resolved.

(5) We previously stated that:

details of proposed mitigation of severe impact on M20 Junction 5 East arm required On initial review of the summary information provided, the results indicated that the Proposed Development would have a severe impact on delay and queues on the M20 East arm, with queues blocking back onto the main carriageway. Whilst mitigation had been suggested within the Transport



Addendum, no evidence had been provided to support the appropriateness of this mitigation, nor is it included within the 'Proposed Mitigation Measures' section of the Report. We require details of the proposed mitigation, including scheme sketches and modelling to demonstrate nil detriment as a minimum, as well as proposed timescales for implementation and confirmation that queues would not encroach on safe stopping distance. The previous Addendum stated that "A suggested mitigation is to provide signalisation of the roundabout with queue detection on the motorway slip lanes to ensure block backs affecting the motorway do not occur. It is understood this mitigation is to be implemented in the near future."

As stated in our original response to you on 6th April 2017, we advised that there were potential schemes for M20 Junction 5 being proposed as part of the Maidstone Local Plan. We encouraged the applicant's consultants to liaise with Maidstone/Kent Councils to determine the form of the scheme and to consider whether the scheme(s) could accommodate the proposed development. We explained that we would require modelling files, evidence that the scheme proposed as part of the Maidstone Local Plan could also accommodate the proposed development and details of how the junction would be mitigated if the Local Plan schemes did not come forward.

Traffic modelling that includes the Maidstone Local Plan Mitigation Scheme has not been provided. Given that this scheme has been agreed as mitigation for the Local Plan, there is a high likelihood that it will be implemented and therefore needs to be assessed as a future scenario. – this comment is unresolved. We need to see modelling files with evidence that the scheme proposed as part of the Maidstone Local Plan could also accommodate the proposed development and details of how the junction would be mitigated if the Local Plan schemes did not come forward.

However, the new transport addendum states that KCC has advised the applicant that M20 J5 will not be included in the programme for improvements as the traffic signalisation scheme which was considered did not provide sufficient capacity benefits. A preferred option has been identified for the Coldharbour roundabout and this, together with the implementation of the Smart motorways on the M20, is expected to ease congestion at M20 J5.

- Suggested mitigation therefore remains as the signalisation of the roundabout with queue detection on the motorway slip lanes to ensure that block backs do not affect the motorway slip lanes to ensure block backs do not affect motorway

We will need to speak to Kent County Council about impacts at the junction as there is conflicting evidence from a number of sources. We will contact you again shortly when we have more definitive answers regarding the need for any mitigation at Junction 5. We note that the applicant is willing to contribute towards

a mitigation scheme for the motorway off slip to prevent queueing back. We need to understand whether KCC's assessment that no mitigation is required also applies for the slip roads and whether our M20 Junction 3-5 Smart Motorway Scheme covers any shortfall in mitigation requirements.

[DPHEH – no further information is available indicating if or when this meeting has taken place. If any more information becomes available it will be reported as a supplementary matter.]

We look forward to the applicant providing satisfactory responses to these outstanding issues and we will investigate M20 Junction 5 issues firstly with Kent County Council before forming an opinion as to what is required as mitigation. In the meantime, we would reiterate our request that the Council should not determine this application (other than a refusal) until the necessary evidence and mitigation has been reviewed and agreed. Should the Council wish to determine the application beforehand they should inform us and we will provide a final and formal response based upon the circumstances at that time.

- 5.3 EA: Response dated 16 March 2018: Maintain objections on the grounds that we do not consider the proposal passes the sequential test. We have detailed the reasons in previous consultation responses. However, the assessment of sequential test is a matter for the LPA to determine in accordance with the NPPF.

[DPHEH: those reasons referred to above are set out below for completeness]

Response dated 14 March 2018:

- 5.3.1 The LPA must determine if the development passes the sequential test. As previously discussed, the area of the former Aylesford Newsprint site is located within flood zones 2 and 3. The EA published flood map does not include the presence of flood defences. However flood modelling available for the north Kent coast which includes this site, shows both undefended and defended scenarios. Therefore the effect of the defences can clearly be determined. In terms of planning policy parts of the site lie within flood zone 3, and are therefore considered to be at high risk of flooding.

Response dated 06 April 2017:

- 5.3.2 Maintains objections because the application of the sequential test has not been clearly demonstrated. We acknowledge that the sequential approach has been applied within the site boundary, however the LPA should be satisfied that residential development on this site would be appropriately justified at the strategic level.
- 5.3.3 While the site does benefit from existing defences from the River Medway, parts of the development site will remain at high flood risk. We consider more vulnerable

residential development would only be appropriate following application of the sequential and exceptions tests.

- 5.3.4 Paragraph 101 of the NPPF requires decision makers to steer new development to areas at the lowest probability of flooding by applying a sequential test. This is supported by policy 9 and 10 of the TMBCS which seeks to uphold a sequential approach to development. This proposal also contravenes policy E1 which states that this area should be safeguarded for employment land use and non-employment uses should not be permitted.
- 5.3.5 The sequential test information submitted with the application (Aylesford Newsprint Addendum to the FRA, reference R133145V010A Rev. B, Pell Frischmann, February 2017) does not demonstrate a lack of alternative sites with less flood risk for residential land use. We are aware that TMBC are currently developing a new local plan which is due to be completed in 2017. We would therefore recommend that any proposal for residential development on this site should be appropriately justified at the strategic level.
- 5.3.6 [summarised] further detailed comments provided on matters of biodiversity, flood risk and ground water and contaminated land along with a suite of planning conditions and informatives to be imposed in the event that planning permission is granted.
- 5.4 SWS: In addition to comments provided earlier, reference should be made to Environment Agency guidance for H4 Odour Management. It shall be suggested that the applicant may wish to investigate the possibility of obtaining from SW odour complaints data relating to dates and times of occurrence
- 5.4.1 As previously stated, SW would object to any habitable development within 1.5 OdU contour of the existing wastewater treatment works. The Odour Study confirms that the planned development area will be affected by both Aylesford and Ditton WWTW.
- 5.4.2 The predicted odour impact area (1.5 ou/m<sup>3</sup>) does not cover some of the odour complaints clusters, confirming the model fails to capture the worst case scenario. All possible odourous sources should be included within the model with application of seasonal emission factors, turbulence factors to all sources where appropriate.
- 5.4.3 Please note that the WWTW site is susceptible to odour impact under opposite wind directions, increasing the likelihood of residents complaining about odour nuisance.
- 5.4.4 With regards to additional information relating to surface water drainage, if the existing development discharges surface water to the existing public surface water system, then a discharge from the site may be permitted. If the applicant wishes to investigate this option, the applicant will be required to provide a topographical site survey and/or a CCTV survey showing the existing connection points, pipe sizes,

gradients and calculations confirming the proposed flows will be no greater than the existing flows received by the sewer.

5.4.5 It is the responsibility of the developer to make suitable provision for the disposal of surface water. Part H3 of the Building Regulations prioritises the means of surface water disposal in the order

- Adequate soakaway or infiltration system
- Water course
- Where neither of the above is practicable sewer

5.5 KCC (LLFA): Additional information has now been provided which clarifies the drainage proposals and responds to our concerns which had previously been provided. If your authority is minded to approve this application we would recommend planning conditions be attached to any approval.

5.6 KCC M + W: The County Council, as Minerals and Waste Planning Authority initially responded to the application in November 2016. An objection was placed due to the proximity of residential properties to the Metals Recycling Facility (a safeguarded waste management facility) to the north of the site, with no justification as to why this was compliant with Policy DM8 of the Kent Minerals and Waste Local Plan 2013-30. The scheme was subsequently amended to position the residential properties further away from the safeguarded facility however some still remain within a 250m radius which meant the clause in DM 8 still applied:

*“Planning applications for development within 250m of safeguarded facilities need to demonstrate that impacts, e.g. noise, dust, light and air emissions, that may legitimately arise from the activities taking place at the safeguarded sites would not be experienced to an unacceptable level by occupants of the proposed development and that vehicle access to and from the facility would not be constrained by the development proposed”*

5.6.1 The County Council then came to the following conclusion on the revision:

*“The County Council considers that negative amenity impacts referred to in policy DM8 may still be experienced by the users/occupiers of the proposed development. Therefore, justification should be given within the planning application documentation as to how these potential impacts will be mitigated to a satisfactory level. Without such information, the County Council as Minerals and Waste Planning Authority maintains an objection to the application”*

5.6.2 From looking at the amendments to the planning application details, it would appear that still no attempt has been made to justify why the occupants of the development would not experience unacceptable adverse amenity impact from the

safeguarded facility. Therefore the County Council, as Minerals and Waste Planning Authority mains an objection to the application.

5.7 MBC: Objections raised for the following reasons:

5.7.1 Maidstone Borough Council is concerned that the transport impacts of the development have not been adequately assessed to date to ensure there would not be a severe impact for the following reasons:

5.7.2 Highways England still require further information including relating to the impact upon the M20 Junction 5, which it is considered must be addressed to ensure there is not a severe transport impact from the development.

5.7.3 With respect to M20 J5, the revised TA suggests that impacts will only be minor and no contribution to signalisation will be needed (paragraph 5.5 of the revised TA). It is MBC's view that this development should make a requisite contribution to the signalisation of the junction.

5.7.4 The list of consents taken into account in the transport assessment includes consents in Maidstone borough at Land East of Hermitage Lane, Land at Bridge Nurseries, Land West of Hermitage -Lane and Land South West of Oakapple Lane. In addition, the transport assessment should take account of the site allocated in the emerging Maidstone Borough Local Plan at Land at Oakapple Lane (Policy H1(4)-187 dwellings.)

5.7.5 It is also noted that the revised TA includes a factor for growth to 2021, 2026 and 2031 derived from DfT forecasts (section 4.7 of the revised TA). It is not clear the extent to which this growth factor takes account of actual planned growth in Maidstone urban area identified through the emerging Maidstone Borough Local Plan, in addition to background growth.

5.7.6 Section 6 of the revised TA identifies potential mitigation measures, none of which fall in Maidstone borough. This should be re-visited in the light of the additional information about planned growth in Maidstone borough above to identify the need for mitigation measures on the junctions in Maidstone borough in particular.

5.8 MC: Raises objection, MC is concerned as to the scale of the employment floorspace proposal and the lack of a potential market identification so as to prejudice the preparation of MC's Local Plan, specifically with regard to the employment land approach being drafted.

5.9 CCG: The CCG has assessed the implications of this proposal on delivery of general practice services and is of the opinion that it will have a direct impact which will require mitigation through the payment of an appropriate financial contribution.

5.9.1 In line with the Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (the CIL Regulations) (Regulation 122) requests for development contributions must comply with the three specific legal tests:

- Necessary;
- Related to the development;
- Reasonably related in scale and kind

5.9.2 We have applied these tests in relation to this planning application and can confirm the following specific requirements. The calculations supporting this requirement

	Total Chargeable units	Total	Project
General Practice	450	£374,876	Towards new premises for Aylesford Medical Centre

The obligation should also include the provision for the re-imburement of any legal costs in incurred in completing the agreement.

Justification for infrastructure development contributions request

5.9.3 The Aylesford Medical Centre is the closest surgery to the development and would therefore be the practice where the majority of the new resident s register for general medical services. This proposal will generate in excess of 950 new patient registrations (based on dwelling mix provided) and along with other new developments in the area, can only be met through re-location of the practice to a new site to ensure sustainable general practice provision to the area.

5.9.4 The physical constraints of the existing site mean that the current premises cannot be extended and opportunities to re-configure existing space to accommodate current growth have already been undertaken. The existing premises could not therefore accommodate the growth generated from this proposal.

5.9.5 From a CCG perspective the growth generated from this proposed development would not trigger consideration of the commissioning of a new general practice; it would however trigger a requirement to support the practice to understand how the growth in the population would be accommodated and therefore premises options. It is not a resilient, sustainable or attractive service model to commission new practices serving a small population, specifically from a workforce perspective. The same principle applies to branch surgeries within a close proximity to the main surgery site.

- 5.9.6 It is however important to note that general practice capacity would need to be created in advance of the growth in population so that both the infrastructure and workforce are in place. We would therefore be seeking the trigger of any healthcare contribution to be available linked to commencement of development.
- 5.9.7 Please note that general practice premises plans will be kept under review and may be subject to change as the CCG must ensure appropriate general medical service capacity is available as part of our commissioning responsibilities.
- 5.9.8 The CCG is of the view that the above complies with the CIL regulations and is necessary in order to mitigate the impacts of the proposal on the provision of general practice services. In accordance with CIL regulation 123 the CCG confirms that there are no more than four other obligations towards this project.
- 5.10 KCC Education: (22.12.17) In its original response, the County Council - as Local Education Authority - set out its education and community services requirements. Specifically, KCC considered that the proposal would have an additional impact on the delivery of the County Council's education and community services (i.e. libraries, youth, community learning and social care) which will require mitigation either through the direct provision of infrastructure or the payment of an appropriate contribution. KCC comments on the primary education requirement of the scheme have evolved since the original application, due to the amendments made to the scheme by the applicant and are provided below. The remaining education and community infrastructure requirements remain unaltered from the original application and thus KCC's comments set out in its original letter (appendix 1) remain valid.

#### Primary Education

- 5.10.1 The proposed development is forecast to give rise to 90 additional primary pupils who cannot be accommodated within forecast surplus capacity in local schools. Therefore, should the proposed development proceed, additional primary education places will be required.
- 5.10.2 The only way that places could be provided for the pupils generated by this proposal is through the construction of a new school. The Borough Council's emerging Local Plan is likely to necessitate the need for at least one new school in the Aylesford area in order to accommodate growth. The County Council considers that the location and accessibility of primary education provision on this development site would be unlikely to offer the optimum location for such a new school, which would accommodate pupils from other development sites as well.
- 5.10.3 As such, the County Council is seeking to secure a new primary school site elsewhere in the Aylesford area through the Local Plan process. In order to mitigate the development's direct impact, it is required that this development site contributes proportionately to the cost of constructing this school, at £16,198 per pupil (£4,535 per house and £1,134 per flat). As the school site has not yet been

secured, contributions towards site acquisition are also required to ensure that no cost to the County Council is incurred from the direct impact of development.

5.10.4 Further, should the residential element of this proposal proceed prior to an off-site new primary school being secured by the County Council then a school within the development will be required to mitigate its impact. Funding for a 1FE school (£4.33 million) and 2.05ha of land at nil cost, complying with KCC's General Site Transfer Terms, would be required under this scenario.

5.10.5 Therefore the County Council considers that this proposal can only be regarded as acceptable in planning terms if it is accompanied by a planning obligation that secures contributions to a new off-site primary school, or the provision of a primary school within the development, should the off-site school not be secured prior to commencement of the residential component.

#### Secondary Education

5.10.6 The proposed development is forecast to generate an additional 65 secondary pupils. These pupils cannot be accommodated within the existing capacity in local schools and therefore additional places will be required. To provide places for the demand generated from the proposal the County Council requires £5,091 per house towards the construction of a new secondary school in the area.

#### Community Services Requirements

5.10.7 The County Council has assessed the implications of the proposed development on its community services and sets out the required mitigation measures in the table below:

	<b>Per Dwelling</b>	<b>Comment</b>
Community Learning	£32.57	The development is forecast to produce an additional 32 clients and there is not surplus capacity within the service to accommodate these.
Youth Services	£13.47	An additional 17 clients is forecast to be generated by the proposal and the requested contribution will be applied to the nearest facility with the ability to expand to meet additional pressure located in Snodland.
Library Bookstock	£50.39	The development has been assessed to produce an additional 250 borrowers. The requested contribution will be used towards enhanced and additional bookstock at Larkfield Library.
Social Care	9 Wheelchair Adaptable Homes required	



Broadband infrastructure	[Summarised] requires details to be submitted for the installation of fixed telecommunication infrastructure and broadband
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5.11 KCC (Heritage): KCC Heritage Conservation set out its comments in relation to the Archaeological Desk-based Assessment submitted with the original planning application. AC Archaeology has since provided further assessment of the heritage issues and there is a reasonable level of baseline description of cultural heritage. In summary, KCC recommends that further specialist assessment is needed to ensure informed decisions are made, which can be addressed through conditions.

5.12 Network Rail: [Summarised] The developer would be required to comply with a number of operational requirements to ensure the safe operation of the railway and protection of adjoining land. A number of contributions towards localised improvements also identified.

5.13 Kent Community Rail Partnership (Sustran): [Summarised] – opportunities to seek developer contributions towards New Hythe Station improvements and encouraging cycle routes in the area.

5.14 KCC (PROW): Public Rights of Way (PROW) previously commented on the proposed scheme requesting agreement on requirements for improvements and future maintenance of the PROW affected by the proposed development.

5.14.1 Public Footpaths MR91, MR433, MR491, MR492, MR493 and MR582 would all be directly affected by the proposed development. Having reviewed the additional information, revised plans indicate that land within flood zones two and three will be raised to the height of the railway embankment from 4m to 5m. The County Council requests that information is provided to demonstrate the potential impacts of this proposal on PROW and the proposed cycle/ pedestrian route, as well as any associated mitigation measures

5.14.2 Furthermore, KCC requests that the following matters are brought to the applicant's attention:

- No furniture, fence, barrier or other structure may be erected on or across Public Rights of Way without the consent of the Local Highway Authority;
- There must be no disturbance of the surface of the PROW, or obstruction of its use, either during or following any approved development without the consent of the Local Highway Authority;

- No hedging or shrubs should be planted within 1.5 metres of the edge of the PRow; and
- The County Council will require 6 weeks' notice to process any application for a temporary traffic regulation order.

5.15 Ramblers: The Ramblers are keen to ensure the existing PROWs in and around the site are kept, and if and where possible, improved. These PROW as shown on the definitive map are MR443, MR91, MR492 and MR 493. To this end we shall be liaising with KCC PROW West Kent Office, and also East Malling and Larkfield Parish Council.

5.16 British Horse Society: As you are aware, the NPPF says planning policies should “protect and enhance public rights of way and access and seek better opportunities to provide better opportunities for users for example adding links to existing rights of way”. As such, we ask that the existing right of way, MR91 be upgraded to bridleway status rather than cycleway and/or footway as part of this development. At bridleway status, this would automatically include pedestrians and cyclists but would also provide the option in the future to extend to and connect to existing equestrian access routes from the Snodland area. Every effort should be made to provide as much off road facility for all vulnerable road users as possible and, in a busy area, such as this part of Kent, this brings benefits to all road users too. We would welcome the opportunity to work with the developer to achieve these aims.

5.17 Kent Downs AONB Unit: While the comments made in our original consultation response regarding the principle of releasing the site for non-employment uses still stand, the AONB Unit welcomes the reduction in height of the proposed buildings and the incorporation of additional structural planting and open space at the north-eastern end of the site. In view of the proposed amendments, we now agree with the conclusions of the LVIA that there would be a slight beneficial visual effect on the Kent Downs AONB subject to appropriate material choice and internal landscaping, as set out in our original response.

5.18 NE: The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal. The proposed amendments to the original application are unlikely to have significant different impacts on the natural environment than the original proposal.

5.19 KWT: We would draw your attention to the close proximity of this proposal to TM30, Leybourne Lakes, a particularly biodiverse and county-valuable Local Wildlife Site. We would recommend that the Council should make certain that this development will not impact upon this LWS, either directly or indirectly; for example through increased recreational pressure, increased contaminated runoff or increased disturbance to the large number of wintering wildfowl and breeding

wildfowl and passerines using this locally designated site. Noise mitigation should be conditioned.

- 5.19.1 We note that comments have been received from Natural England regarding the SSSI Holborough to Burham Marshes. We would recommend that the Council ensures that impact is avoided to the water quality and habitats and species found within and around the nearby lakes and watercourses; measures should be incorporated into the detailed design to ensure that no contaminated runoff will reach the lakes or stream, both during construction and operation.
- 5.19.2 More detail would be welcomed at reserved matters stage on the “riverside walk” and public access to Ditton Stream, including future management of these areas. In addition to this, further detail of mitigation strategies for bats, birds and barn owl in particular will need to be provided at detailed stage. We would recommend a lighting strategy, supported by condition, in order to avoid negative impact upon bats and barn owl, particularly alongside the River Medway and along the southern boundary vegetation.
- 5.19.3 I note the additional report on water voles, which confirms that a water vole survey is required. This does not, as yet, appear to have been submitted. This should be carried out prior to determination of the application, in line with the government circular 06/2005 which is still valid. (A water vole survey has subsequently been submitted).
- 5.20 KBG: No response.
- 5.21 Police Architectural Liaison: Having reviewed the on line plans and documentation, I have no additional comments to make in regard to the amplification of the ES. However comments submitted 01.11.16 remain valid in order to address CPTED should this proposal proceed.
- 5.22 Gas Pipelines: [Summarised] A high pressure gas pipeline exists at the site and therefore advice is offered during construction.
- 5.23 DCLG: (11.05.17) No comment offered on the submitted ES.
- 5.24 HSE: No comment.
- 5.25 SEW: No response.
- 5.26 LMDB: No response
- 5.27 Mersey Docks and Harbour Company: No response
- 5.28 KFRS: No response
- 5.29 Ditton PC: [summarised] although there is no objection at this stage the PC would like to comment with concern regarding the current lack of infrastructure to cope

with this level of proposed development. In particular with regards to a lack of medical and educational facilities and concerns over the impact of further cars on the already heavily impacted A20 London Road. The imminent traffic assessment is eagerly awaited.

- 5.30 East Malling & Larkfield PC: [summarised] Comments relating to the needs to improve both railway stations, PROWs, retention of any important features including the Mill Pond and Ditton stream, information and comment regarding traffic, junctions, bus and pedestrian routes. Comments in relation to possible conditions should permission be granted.
- 5.31 Aylesford PC: [summarised] the site should remain as an economic hub and not include housing, if essential a decrease in numbers and removal of housing to the east of the railway line. The residential units would be in a high risk flood area, and those to the east would have restricted access. The opening up of Bellingham Way is opposed but if permitted should be limited to residential use only. Concern about the significant increase in traffic on already over capacity junctions.
- 5.32 Leybourne PC: [summarised] LPC recognises the need for the redevelopment but is concerned that traffic volumes are a problem and will get worse – comments are provided on specific roads and junctions. The additional school should be provided sooner rather than later if the application is permitted to avoid additional traffic movements.
- 5.33 Private Reps: 1172 + site and press notices: 4X/47R/2S

Objections summarised as follows:

- The site should be retained entirely for industrial use
- The surrounding roads are already heavily congested/gridlocked, particularly mentioned is Station Road, the level crossing, London Road (A20), Hermitage Lane, Priory Grove, New Hythe Lane, Leybourne Way, Hall Road, M20 and M2. Often cited is the new development on Hermitage Road (McDonalds and Aldi) which has added to the existing congestion.
- The congestion will increase journey times, limit access for emergency vehicles, result in increased noise and pollution and reduced air quality. A 183% am peak and 113% pm peak increase in traffic flow is unacceptable and contradicts section 4.9.4 of Technical Note 004 rev A.
- The adverse impact in terms of noise and pollution to residents on the north side of Brook Road resulting from increases in traffic on Leybourne Way. This will affect the health of residents and other alternatives must be considered including a new motorway junction.
- The traffic figures do not consider the cumulative impact of the 1000 properties at Peters Village, Leybourne Chase and the new houses in Snodland. The

suggestion that the reduction in traffic on Leybourne Way.

- The increase in car and lorry numbers will exacerbate the poor condition of the existing roads and increase parking problems.
- The development is not feasible until improvements are made to the existing infrastructure, including a new motorway junction, sewage system, water supply, an increased number of access roads to the site and improved public transport provision.
- Traffic calming is needed on New Hythe Lane.
- Concern is expressed about the light pollution from the motorway.
- Commercial development will have an adverse impact on the residential amenity of the adjacent dwellings at Aberly Drive resulting from noise, smell, fumes and light pollution.
- There will be an adverse impact on the ambience of this quiet area and surrounding landscape.
- Local house prices will be affected.
- There will be disruption during construction.
- The previously promised noise reducing fences have not been provided.
- Concerns from a local business seeking confirmation that their existing use of Papyrus Way and the link road to Collage Road will be unaffected by the development.
- Cobdown Stream needs dredging to avoid the culverts flooding. Who would take responsibility if approval is given?
- The doctors' surgeries, hospital, schools and nursery schools are already full to capacity. The proposed doctors surgery should include an NHS dental surgery and be opened before the dwellings are occupied.
- The hospital will need to be expanded to serve the new residents and avoid increased waiting times. Is the developer contributing to the new school and the doctors?
- The proposed housing will be too expensive for local people

Neutral comments summarised as follows:

- No objection is raised but concerned about the increased number of cars considering the existing congestion problems and the Council must consider

the increased pressure on schools, doctors and the hospital.

- For years we had hoped for the opening up of Bellingham Way.
- The application would be supported if there is to be a new junction on the M20 to take the industrial traffic.
- Make up the footpaths (MR91) to a bridleway to allow for horses and cyclists.

Supporting comments summarised as follows:

- The application will promote continued business employment.
- The application will provide visual enhancements.
- The opening up of Station Road will help to ease traffic but will require traffic calming measures.
- The mixed use will compensate for the loss of jobs at Aylesford Newsprint.
- It is good that the housing will be on brownfield rather than a greenfield site.
- The improvements to the tow path and Ditton Stream are welcomed.

## **6. Determining Issues:**

6.1 As Members will be aware the LPA is required to determine planning applications in accordance with the adopted Development Plan unless material planning considerations indicate otherwise. The Development Plan currently in force comprises the TMBCS (September 2007), the DLA DPD (April 2008), the MDE DPD (April 2010), the saved policies of the TMBLP and the KCC Minerals and Waste Local Plan 2013 – 2030. The policies contained within the NPPF and the guidance contained within the associated NPPG are material considerations.

### *Principle of development:*

6.2 The site lies within an area safeguarded for employment purposes as set out within policy E1 (d) of the DLA DPD. The site is allocated for business (B1), general industrial (B2) and warehouse and distribution (B8) use. Policy CP21 of the TMBCS requires new employment provision to be met on vacant sites within the main employment areas that are well located to the transport network, are physically and viably capable of redevelopment and can meet a range of employment uses. The proposed employment space is to be provided on a vacant site located within an existing and well located commercial area. However, policy CP21 specifically states that the redevelopment of such sites for housing or other

non-employment uses will not be permitted. This means that whilst the redevelopment of the site for employment use would be policy compliant, the development of the site for alternative uses, even on a partial basis, conflicts with the Development Plan in this respect.

- 6.3 Paragraph 22 of the NPPF states that where there is no reasonable prospect of a site being used for employment purposes applications for alternative uses should be considered on their merits having regard to market signals and the relevant need for different land uses to support sustainable local communities. This is a material consideration. TMBC has recently reviewed the employment land within the Borough as part of the local plan process. Within this review, the application site has been included as part of the existing stock of employment land within the Borough. The Employment Land Review Updated (dated November 2017) identifies a net need of 46.8 hectares of employment land to be provided through the emerging local plan even when taking into account the retention of the application site for employment purposes. The Council's call for sites exercise identified approximately 32.8 hectares of additional employment land that could come forward but that still gives rise to a shortfall.
- 6.4 This means that any loss of employment land here would need to be added to this figure and met at other sites, either through the intensification of existing sites or the allocation of new sites as part of the local plan process. Hence the use of any part of the site for a non-employment use would result in a loss of to the existing levels of employment land.
- 6.5 The Socio-Economic chapter of the ES (Chapter 18) provides an assessment of the socio-economic effects of the development and the extent to which these contribute towards planning policy. The key areas of potential impact that have been considered as part of this assessment are (inter alia) job creation and expenditure effects within the local economy.
- 6.6 Temporary effects are considered within this context as being those associated with the construction of the development and the long term effects are those associated within the development once completed and operational.
- 6.7 The ES sets out that the potential significant effects arising from the development in this respect centre firstly on employment opportunities generated by the construction phase of the development, taking into account the fact that the commencement of the development is as yet unknown and the programme of build out is unknown, although an assumption of three years is given. On this basis, the ES states that an average of circa 360 construction jobs per year (340 FTEs) would be created, which would be considered as having a moderate beneficial impact at local level and a minor impact at a regional level. The expenditure effects are expected to have a minor impact at local level and a negligible impact at regional level.

- 6.8 In seeking to apply projections to levels of employment once the development is completed and operational, the ES applies employment density ratios to indicate levels of employment to be generated by the amount of floor space that would be created by the development. This acknowledges that levels of employment will be dependent on the specific nature of the uses which take place, whether they be B1, B2 or B8 given that this is a scheme submitted in outline form only and there remain unknowns as to what the market may demand in terms of the specifics. There are considerable differences in these projections when comparing B1 to B8 floor spaces and as such the ES estimates towards the lower end. On this basis, the development would generate employment of 1,023 gross direct FTE jobs, assuming that most of the floor space provision was for B8 use. If higher density employment space is provided, the ES explains that that the employment impact may be greater. There are expected to be 748 total net FTE jobs created. The ES sets this out as being additional employment as there is currently no employment generated by the site.
- 6.9 Overall, it concludes that the employment supported in the operational phase of the development is expected to have a major beneficial impact at a local level and a minor impact at a regional level.
- 6.10 The ES states that whilst the scale of safeguarded employment land in the area appears significant, it needs to be understood in the context of net losses of employment space in most recent years (including ANP itself) and within the context of viability which is unclear on an individual site basis. It sets out that the forecasts for Tonbridge and Malling are “relatively strong” and that the proposed scheme could play an important role in helping to accommodate that forecast growth as well as compensating for the loss of employment due to the closure of ANP.
- 6.11 On this basis, no mitigation is considered necessary on behalf of the applicant other than to suggest the possibility of linking the construction work to local businesses where possible to do so.
- 6.12 I appreciate that the redevelopment of the site would result in job creation. However this is not, in itself, sufficient justification to overcome the fundamental conflict with the development plan when it can be clearly demonstrated that the Borough is not only in need of its existing employment land but needs to allocate additional land for this purpose. The application presents no evidence to suggest that the use of the site for employment purposes in conformity with the Development Plan could not come forward or is not viable for any reason and therefore this is an overt conflict with adopted policy, with no material considerations indicating there should be a divergence from the adopted policy in this respect. Whilst there would be job creation arising from the development, the scheme as proposed would sterilise around half the site for such purposes.



- 6.13 Furthermore, the application proposes residential development to the south of an existing metals recycling facility. Policy DM8 of the KMWLP seeks to resist development that could constrain the operation of such a safeguarded waste management facility. The policy states that planning applications for development within 250m of safeguarded facilities must demonstrate that impacts in respect of noise, dust, light and air emissions that may legitimately arise from safeguarded sites, would not be experienced to an unacceptable level by occupants of the proposed development. The application seeks to introduce residential units within 250m of the metals recycling facility and does not provide any information to demonstrate that suitable levels of residential amenity can be achieved (which I go on to address in more detail in the subsequent assessment). Paragraph 123 of the NPPF recognises that existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established. The proposed development introducing residential use close to an established business and safeguarded site of this nature would therefore be contrary to the KMWLP and the NPPF. Again, there are no material considerations that would indicate the adopted policy position should be diverted from.
- 6.14 The application seeks planning permission for up to 450 dwellings. The ES identifies that the development contribute to the Council's OAN and on the population projection of 2.5 persons per household the total estimated population would arising from the development would be 1,125. The ES acknowledges that it would be difficult to establish the additional "income effect" of that population as it is unknown as to what proportion of the population already reside in the local area. However, using baseline trends gathered from census data, the ES assumes that 257 households would be new to the area, bringing with it an estimated (cira) £7mn of additional spending, based on an average of £531 spent by a typical household on a weekly basis. The conclusion in this respect being that the impact of the additional population to the area associated with the scheme, as concluded by the ES would be "relatively negligible".
- 6.15 As Members will be aware it has recently been established that TMBC cannot currently demonstrate a five year supply of housing when measured against its objectively assessed need. In such circumstances it is necessary for LPAs to consider the requirements of paragraphs 49 and 14 of the NPPF which set out the presumption in favour to be applied.
- 6.16 Specifically, paragraph 49 of the NPPF states that where a local planning authority cannot demonstrate a five-year supply of deliverable housing sites policies for the supply of housing should not be considered up-to-date. Paragraph 14 of the NPPF sets out the presumption in favour of sustainable development, stating that if development proposals accord with the development plan they should be approved without delay, but where the development plan is out of date planning permission should be granted unless any adverse impact would significantly and demonstrably outweigh the benefits when assessed against the policies in the

NPPF, or specific policies in the NPPF indicate development should be restricted. Crucially in respect of this proposed development, footnote 9 of paragraph 14 provides examples of those restrictive policies, one of which is development at locations at risk of flooding. This means that if the development fails to overcome the restrictive policies contained within the Framework (in respect of flooding specifically this means passing the sequential and exceptions tests) then the presumption in favour of sustainable development would not fall to be applied. As such, it is necessary to address straightaway whether those tests are passed in this instance.

Flood risk:

- 6.17 Policy CP10 of the TMBCS states that within the floodplain development should first seek to make use of areas at no or low risk to flooding before areas at higher risk are considered. Paragraphs 100 – 104 of the NPPF seek to restrict development in areas which are at risk from flooding. The requirements for application of the sequential and exceptions tests as set out in the NPPF is a material consideration. The location of the site partially within Flood Zone 3 and the nature of the use of the site (insofar as it relates to the residential aspects) being categorised as “more vulnerable” for the purpose of applying the requirements of the NPPF means that both tests must be applied in this instance.
- 6.18 The aim of the Sequential Test is to guide new development to areas with the lowest risk of flooding. The development should not be permitted if there are ‘reasonably available sites appropriate for the proposed development’ in areas with a lower probability of flooding. If, following application of the Sequential Test, it is not possible for the development to be located in zones with a lower probability of flooding then the Exception Test can be applied. This must demonstrate that a) the proposed development will provide wider sustainable benefits to the community that outweigh the flood risk and b) the proposed development will be safe for its life time.
- 6.19 Matters of flood risk are addressed within Chapter 14 of the submitted ES along with a detailed FRA. The ES submits that the flood risk posed by tidal, fluvial, surface water, artificial flood sources and groundwater has been reviewed and is considered to be very low after mitigation measures, therefore the proposed development will have what they term to be a “neutral effect”.
- 6.20 In order to pass the sequential test, the application would need to consider whether there are policy compliant alternative sites in the Medway Gap area that are available and suitable for residential development outside flood zone 3 which could accommodate 450 dwellings. The submission however appears to confuse the methodology required for planning applications with that required for plan making and the EA confirm that as such the sequential test is not passed. The applicant has been given multiple opportunities to attempt to correct this but has not done so.

- 6.21 Notwithstanding the ongoing failure to meet the sequential test, the submission goes on to seek to demonstrate the exception test is passed. The intention is to raise the land levels of the part of the site close to the river, ensure minimum finished floor levels of buildings and design the dwellings with flood resilient measures. These are set out expressly as mitigation measures within Chapter 14 of the ES also. Whilst the application has provided flood mitigation measures it has not demonstrated any wider sustainably benefits to the community would outweigh the flooding risk (the sequential test). The submission introduces residential development into an area with a high probability of flooding and in its failure to pass the sequential test is in conflict with adopted policy and the requirements of the NPPF. In this respect, the EA as a statutory consultee is maintaining an objection to the proposed development through its detailed representations (Section 5 of this report).
- 6.22 As set out above, footnote 9 of paragraph 14 of the NPPF refers to sites at risk of flooding as being a restrictive policy for the purposes of applying the presumption in favour of sustainable development where an up to date five year supply of housing cannot be demonstrated. The conclusions drawn in respect of flood risk and the failure to meet the requirements of the sequential test specifically, effectively means that the requirement to apply the presumption on this basis falls away and the overriding principle objection to the provision of housing on this site without any justification remains.

Highway safety and traffic generation:

- 6.23 Policy SQ8 of the MDE DPD requires development to demonstrate that where it is likely to have a significant effect on the highway network and/or the environment the appropriate mitigation measures must be provided before the development is used or occupied. Paragraph 32 of the NPPF states that plans and decisions should take account of whether:
- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
  - safe and suitable access to the site can be achieved for all people; and
  - improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 6.24 Access arrangements serving the proposed development are a matter for consideration at this stage, rather than reserved for future consideration. The submission sets out how the site will be accessed and internal access arrangements creating permeability and connectivity to and through the site. Whilst the access arrangements themselves have not been subject to any detailed

comment or objection by KHS or HE, the focus has been on the level of traffic to be generated by the proposed redevelopment.

6.25 In terms of traffic generation, the ES (Chapter 15) submits that the scheme will deliver improvements at several junctions along the main access routes to the development as part of the mitigation measures and that development traffic, in the view of the applicant, is not considered to have a material impact on the A20 or M20 as a result of these improvements. The improvements as set out in the ES are said to all be capable of delivery within existing public highway land (rather than on third party land which might affect deliverability). These are summarised as follows:

- Road widening along Leybourne Way to allow for the provision of two lanes of queuing westbound traffic, thus facilitating a faster discharge of vehicles from Leybourne Way;
- Provision of an on-slip lane onto the A228 allowing for unimpeded departure for southbound vehicles exiting Leybourne Way;
- Extended right turn lane on the A228 to provide an increased storage for vehicles queuing to approach Leybourne Way;
- Signalisation of the junction of Lunsford Lane and Leybourne Way to reduce blocking by right turning vehicles;
- Conversion of the priority at the junction Station Road with the proposed new link road to better reflect changes in flows following the opening up of the through-route.;
- Conversion of the New Hythe Lane/Leybourne Way roundabout into a signalised junction.

6.26 Further mitigation is set out within the ES as comprising a traffic management plan for addressing impact at the construction phase, the new link road as being integral to the development but also as a mitigation measure as it would provide what they describe as being “substantial relief” to receptors along the A20 and New Hythe Lane, and the incorporation of a travel plan which has been provided in connection with the development and identifies a package of measures to encourage sustainable travel.

6.27 The preceding section of the report sets out in full the latest set of representations made by HE and KHS. These provide statutory advice based on detailed technical assessments of the proposed development, including the purported mitigation measures to improve certain junctions.

6.28 It is clear that the evidence provided to date has allowed for some detailed analysis of potential impacts and mitigation measures to take place, which is

welcomed. However, KHS continue to conclude that there remain some key junctions where the impact would be severe but mitigation is not proposed in conflict with adopted policy and the requirements of the NPPF. This is the case at the junction of Coldharbour Lane and the A20, the A20 and Hermitage Lane, the A20 and Mills Road/Hall Road and junction 4 of the M20. Whilst possible improvement works are being pursued at the present time by KHS, and the applicant has made the suggestion that further contributions might be made in these respects, there is simply no suggestion that the schemes are deliverable or any evidence to suggest that they would mitigate adequately the impacts arising from the development here in any case.

- 6.29 A recent High Court judgement in this respect is key (*Gladman Developments Ltd v SSCLG & CPRE (Kent) [2017] EWHC 2768 (Admin.)*). This case centred on whether or not adverse impacts on two AQMAs could be satisfactorily overcome by the payment of a financial contribution to fund mitigation measures. Specifically, the planning inspector had concluded that there was no evidence of the likely effectiveness of such mitigation measures to reduce NO<sub>2</sub> emissions and the appeal was dismissed. It was this decision that was subject to the challenge by Gladmans through the Court but was ultimately unsuccessful, with the judge considering that the financial contributions to mitigate adverse impacts on air quality 'had not been shown to translate into actual measures ...'.
- 6.30 The consequence of this judgement in connection with this application (and the suggestion that schemes for junction improvements that have yet to be designed, quantified or evidenced could successfully overcome severe highway impacts) is that until such time as the detailed design work was completed and costed, and evidenced as overcoming the adverse impacts and be ultimately deliverable, should not be seen as acceptable mitigation.
- 6.31 With these factors in mind, it is clear that the proposed development, even when taking into account the historic, extant use of the site as a whole, would cause severe impacts on the highway network that at this time cannot be adequately overcome through specific, evidenced and deliverable mitigation measures and is therefore contrary to adopted policy and the requirements of the NPPF in terms of the severity test.
- 6.32 It should also be recognised that HE have directional powers to prevent planning permission being granted in the face of objections they raise to development proposals. As such, in the event that TMBC were to seek to grant planning permission, HE could use those powers to prevent that from happening.
- 6.33 It has been suggested through consultation responses that there is a need for a new motorway junction. It must be remembered however that the primary purpose of the strategic road network (SNR) is the long-distance movement of goods and people. It would not therefore be appropriate to introduce works to the SNR which were designed specifically to overcome local traffic issues. It must also be noted

that HE consider that such a junction would be unsafe owing to the insufficient distance between the existing junctions. As such, no such scheme is proposed and should form no part of the consideration of the current planning application.

Residential amenities of existing residents:

- 6.34 Policy CP1 of the TMBCS requires all new development to result in a high quality sustainable environment. Policy CP24 of the TMBCS seeks to ensure that all development is well designed and respects the site and its surroundings. Policy SQ1 of the MDE DPD requires all development to reflect local distinctiveness and to protect, conserve and, where possible enhance the character of the area. This aim is echoed in paragraph 58 of the NPPF which seeks to ensure that development will function well, create attractive, safe places in which to live and work, optimise the potential of the site, respond to the local character of the surroundings and be visually attractive.
- 6.35 In these respects, the ES sets out potential significant effects of noise on existing residents, addressing the impact of the construction and operational phases. Mitigation at the construction phase will be derived from fences or barriers to the site. At the operational stage, the ES identifies that, at worst, the development of the site would create a “slight adverse” impact on existing residential neighbours due to increased traffic movements which cannot be mitigated against. The existing residential dwellings closest to the application site lie to the North West comprising Abery Drive and Eaton Place. It is important to consider the potential impacts of the redevelopment of the site on the levels of existing residential amenity at these dwellings. In this context, it must be remembered however that the site is located within an established industrial estate where traffic movement and other associated impacts already exist.

Odour impacts on future residential occupiers:

- 6.36 The site is located near two waste water treatment works. The technical representations made by SWS have been reproduced at Section 5 of this report and these conclude with an ongoing objection to any residential development sited within a 1.5 odu contour of the treatment works on the basis that the introduction of development within such areas will cause odour nuisance, which would adversely affect the amenities of the residents of those dwellings.
- 6.37 In these respects, the submitted ES sets out that an odour risk assessment has identified a potential for slight to moderate adverse odour effects at the worst-case sensitive receptor locations. Furthermore, a substantial adverse effect is predicted at a single location close to the Aylesford STW. Overall, the ES submits that the STWs will lead to significant odour effects at the worst-case locations within the proposed development. The ES explained that an odour assessment was in preparation at the time of submission and further information would be submitted as an addendum to the ES in due course. This was duly submitted in 2017 and the Council’s commissioned consultant provided detailed comments on the further

analysis. Overall, it is fair to conclude that disagreement continues between the parties as to the significance of the likely odour effects on the proposed residential development across the site given the presence of the STWs. There has been a broad suggestion that in theory it may be possible to mitigate the impact and thus overcome the continuing objection by SWS through the carrying out of mitigation measures in the form of physical works to the waste water treatment works. No detailed scheme has been put forward in this respect to date.

6.38 As a result, the proposal does not include any specific mitigation measures to overcome the potential for odour nuisance and in the absence of defined and deliverable measures there is no certainty that the impact arising from the proximity of the STWs can be successfully abated. In the absence of such certainty, I am not convinced that the development could take place in an acceptable manner to ensure that the residential amenities of the future occupiers of the dwellings would not be harmed.

Noise impact on future residential occupiers:

6.39 Paragraph 123 of the NPPF states that planning decisions should aim to:

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
- mitigate and reduce to a minimum other adverse impacts<sup>27</sup> on health and quality of life arising from noise from new development, including through the use of conditions;
- recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and
- identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.

6.40 Chapter 12 of the submitted ES is set out to address noise and vibration impacts associated with the proposed development. It acknowledges that the introduction of new residential development and (potentially) a new school would have the potential to introduce future noise sensitive receptors onto the site with the main sources of noise arising from the M20 motorway, railway and neighbouring industrial uses.

6.41 The ES concludes that in respect of railway and industrial noise, the new dwellings could be designed and constructed in such a way that suitably mitigates any noise arising. This would include the use of acoustic double glazing to habitable room windows with associated ventilation along with the detailed internal layouts of

buildings designed in such a way to avoid direct relationships with the noise sources (through directing habitable room windows away from the railway line for example). Such measures are commonplace and would ensure acceptable environments could be created for new residents in respect of these noise sources.

- 6.42 However, the ES identifies that the M20 creates significant noise along the southern boundary of the site. Modelling has also been included to take into account scenarios with and without the link road in existence. This modelling indicates that the link road does increase noise along its length although the ES sets out that this is not to such a degree to preclude development from taking place but rather that the increased levels would need to be factored into the detailed development plan for the site.
- 6.43 To mitigate the noise from the M20 on future occupiers of the site, the ES sets out that a 6m high acoustic fence above ground level on the site boundary adjacent to the M20 would be required. An indicative plan has been included within the ES suggesting the extent of the acoustic fence along this boundary and it is suggested that the fence would need to be designed from absorptive materials to prevent noise being reflected from its surface. No detailed scheme has been put forward indicating the precise nature of the fence that would be required to provide the necessary mitigation and there has been no demonstration as to the effectiveness of those measures. In addition, although details have not been provided at this stage, the impact of a large acoustic fence of the size and appearance that would be required in order to achieve the necessary attenuation would undoubtedly cause visual harm and be unacceptably intrusive.
- 6.44 As such, the introduction of residential development on this site would cause harm to the amenities of the future occupiers in terms of the significant noise impact arising from the proximity of the M20 motorway, for which no detailed, acceptable scheme to overcome this harm has been forthcoming.

*Air quality impact:*

- 6.45 Policy SQ4 of the MDE DPD only allows for development where the proposed land use does not result in a significant deterioration in air quality, does not result in the creation of a new Air Quality Management Area (AQMA), is not sited close to an existing harmful source of air pollution or impact on designated sites of nature conservation.
- 6.46 In addition, paragraph 124 of the NPPF states that planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan.
- 6.47 Residential development is proposed in the south of the site between the motorway and the proposed employment development. The ES accepts that with the inclusion of the proposed link road, at the operational stage air quality would



be judged to be “significant” without mitigation, causing “moderate adverse” impacts at a number of identified receptors (set out in Table 7.14 of the ES). This leads to the need for mitigation to be incorporated into the development.

- 6.48 The ES itself and a subsequently submitted Air Quality and Odour Assessment Addendum (September 2017) set out that mitigation would be provided through a financial contribution secured via Section 106 agreement and that the precise nature of the mitigation would need to be agreed with the Council. In addition the ES refers again to the 6m high acoustic barrier which is stated would further reduce air quality impacts of the M20 on the proposed development.
- 6.49 As part of its assessment of air quality impacts, a consultant has been commissioned to provide specific advice to the Council on this matter. The advice culminates in the fact that no evidence has been provided by the applicant that the barrier fence would reduce exposures at sensitive receptors and that a quantitative assessment of the mitigation should be provided to evidence that exposures can be reduced.
- 6.50 Moreover, it is simply not enough to suggest that a financial contribution to provide for abstract mitigation measures to reduce air quality impacts of road traffic emissions is sufficient to overcome the identified impact. The “Gladman” High Court judgement referred to earlier within this report set out that financial contributions to mitigate adverse impacts on air quality ‘had not been shown to translate into actual measures likely to reduce the use of private petrol and diesel vehicles and hence reduce the forecast NO<sub>2</sub> emissions’. Therefore if developers propose to use the DEFRA damage-cost model (which is what the applicant has used in this instance to arrive at a total contribution figure of £1,339,972) to calculate reasonable contributions to mitigate identified adverse impacts on air quality, they should ensure that such contributions translate into actual measures which reduce NO<sub>2</sub> emissions.
- 6.51 As such, there can be no reasonable confidence that the identified impact can be demonstrably mitigated at this time.
- 6.52 Additionally, it should be noted that the significance of the impacts set out within the ES and the subsequent need for mitigation to be applied, rely erroneously on the fact that measures to reduce pollutant emissions from road traffic noise are principally being delivered in the longer term by the introduction of more stringent emissions standards, largely through EU legislation. Effectively, this could mean that the impacts have not been correctly measured and the mitigation (albeit suggested in the form of a contribution which cannot be accepted in the abstract for the reasons set out above) may in fact be increased.
- 6.53 With these factors in mind, I remain unconvinced that the proposed development could come forward in such a way that would ensure no significant deterioration in air quality as required by policy SQ4 of the MDE DPD.

Visual impact:

- 6.54 Policy CP24 of the TMBCS sets out that new development must be well designed and of a high quality in terms of detailing and use of appropriate materials and must through its scale, density, layout, siting, character and appearance be designed to respect the site and its surroundings. The policy goes on to set out that the all development should wherever possible make a positive contribution towards the enhancement of the appearance and safety of the area.
- 6.55 Policy SQ1 of the MDE DPD relates specifically to landscape and townscape protection and enhancement and sets out that proposals for development will be required to reflect the local distinctiveness, condition, and sensitivity to change of the local character areas. It goes on to state that all new development should conserve, and where possible enhance, the distinct setting of, and relationship between, the pattern of settlement, roads and the landscape, urban form and important views and the biodiversity value of the area. The Medway Gap Character Area Appraisal is the SPD that supports policy SQ1.
- 6.56 Policy SQ3 seeks to protect the character, integrity and setting of historic parks and gardens.
- 6.57 Policy E1 of the DLA DPD, which allocates this site for employment use, states that any new development or redevelopment within these areas for employment purposes must not result in unacceptable impact on residential or rural amenity by virtue of noise, dust, smell, vibration or other emissions or by visual intrusion or the nature and scale of traffic generation.
- 6.58 The core principles set out within the NPPF seek to secure high quality design and a good standard of amenity for existing and future residents. Paragraph 64 of the NPPF expressly states that permission should be refused for development of poor design which fails to take the opportunities for improving the character and quality of an area and the way it functions.
- 6.59 In these respects, the submitted ES (Chapter 13: Landscape and Visual Impact) sets out the likely significant effects of the proposed development in terms of landscape and visual impact. It undertakes an assessment of both landscape and townscape character and the likely effects at both construction and operation stages of the development and what, if any mitigation is required to offset those effects.
- 6.60 The proposed development consists of 22 hectares of office/warehouse (B1, B2, B8 uses), split into smaller parcels with interconnecting roads. Access to the commercial development is maintained from Bellingham Way with the new access road linking to Station Road, leading through the residential portion of the site which will be interspersed with open space integral to the layout of the development. The ES sets out that the commercial uses will occupy around 50%

of the site, with the residential development at 19%, providing 450 dwellings at a density of between 30 – 60 dwellings per hectare, open space across 15% and local facilities, roads, etc. occupying the remainder of the site.

- 6.61 Chapter 13 of the ES sets out that the proposed redevelopment seeks to characterise a more coherent form of development across the site which could allow for the scale and massing of built form to be reduced and potentially knit into the townscape in an appropriate way, thus enhancing the character of New Hythe. It goes on to explain that there could be a rejuvenation of the local area given that the site lies on the edge of the settlement, with potential enhancements to landscape within the built development. It is acknowledged that the character of the site will change significantly as a result of the proposed development.
- 6.62 Table 13.8 of the ES sets out a summary of the likely significant effects of the development in these respects. It is accepted that the redevelopment of the site will have a “moderate magnitude” of change on the townscape. During the construction phase, the ES sets this out to be a slight to moderate adverse effect given the scale of the site and the significant use of construction plant, traffic, hoarding, signage and highway paraphernalia. The scale and massing of the proposed buildings and earthworks during this period of time is accepted by the ES as being “fully disruptive to the townscape character, albeit temporary and short term.” Effects on the visual environment are broken down further dependant on different receptors and different vantage points and their relative sensitivities. The most sensitive of these receptors are the nearest residential dwellings and users of the public rights of way, the significance of the effect diminishes as the degrees of separation increase (in the most basic of terms). Overall, it is accepted that the construction impacts will have a significant impact on visual receptors at the southern edge of the site and that the development will create a clear deterioration in the visual amenity for the short term.
- 6.63 Conversely, the ES sets out that once operational the development will have a slight to moderate beneficial significance on the impact of the immediate townscape character due to the development of modern buildings and public realm which would positively contribute to the local area, with what the ES terms to be a “slight beneficial effect” to visual impact due to the change in character and appearance of the site arising from the redevelopment.
- 6.64 The committed developments considered as part of the cumulative assessment will not give rise to any likely significant cumulative effects as those schemes are considered to be sufficiently detached from the development.
- 6.65 As a standalone consideration and notwithstanding the various, significant issues already identified, the proposed scale of the development once operational would be acceptable when considering the requirements of policies CP1, CP24 and SQ1 and I concur with the conclusions of the ES in respect of the relative effects arising to the townscape, landscape and visual amenity in these respects. Much is made

within the ES of enhancements to the landscape quality and public realm throughout the site once operational and I accept that an acceptable quality of development could be undertaken here provided sufficient amounts of open space and good quality landscaping was provided. In the event that outline planning permission were granted for this redevelopment, this would be a matter for more detailed assessment at the reserved matters stage, having regard to the parameters set out within this submission.

- 6.66 Matters pertaining to layout of the development are also to be determined at the outline stage rather than reserved for future consideration (as with landscaping and appearance). The layout has been dictated largely through the need to group the employment uses in proximity to the existing industrial uses that lie adjacent to the site to the north and west. This effectively renders the highly constrained southern and eastern portions of the site left for the proposed residential development. This layout contributes to the harm already identified within the report but in fact any alternative layout that includes an element of residential on this site would in itself be problematic as there would instead, for example, be a closer relationship between the existing industrial uses which would in all likelihood be unacceptable for other reasons.
- 6.67 Given the considerable size of the site overall, another key consideration, albeit much more specific, is the lighting strategy for the site. The MDE DPD recognises that if not properly controlled, insensitive artificial lighting can cause harm to residential amenity, the built environment and the sky at night. Equally, good quality lighting can make a valuable contribution to the design, efficiency, ambience and sense of place. Given the size of this site, and its overall prominence, any external lighting has the potential to make either a positive or negative contribution to the local environment.
- 6.68 Chapter 17 of the ES expressly deals with effects of lighting and identifies that during the construction period good practices be adopted to reduce light spill and minimise the amount of lighting across the site whilst ensuring safe working practices and appropriate security. Reference is also made to the need to take account the presence of bats and barn owls which are known to be present.
- 6.69 At the operational stage of the development, the ES concludes that there would be a slight benefit arising from the removal of outdated road lighting and floodlighting from the site and the installation of modern lighting that accords with Kent Design standards. Again, the strategy would need to take account of the presence of bats and barn owls.
- 6.70 I would agree that the redevelopment scheme provides an opportunity for enhancements to the historic situation here in respect of external lighting and would suggest that in order to ensure that the impact is wholly positive at both construction and operational stages of the development, full details of any external

lighting be submitted by requirement of condition if outline planning permission were to be granted.

*Impact on AONB setting:*

6.71 The statutory purpose of the AONB is to conserve and enhance the area's natural beauty. Relevant to this is the duty on public bodies to 'have regard' for that statutory purpose in carrying out their functions (section 85 of the Countryside and Rights of Way Act, 2000). The PPG confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

6.72 First and foremost, Section 85 of the Countryside and Rights of Way Act 2000 places a duty on the Council (in this case in its role as Local Planning Authority) that in exercising or performing any of its functions in relation to, or so as to affect, land in an AONB, it shall have regard to the purpose of conserving and enhancing the natural beauty of the AONB. The development plan, by virtue of TMBCS Policy CP7, requires that:

"Development will not be proposed in the LDF, or otherwise permitted, which would be detrimental to the natural beauty and quiet enjoyment of the Areas of Outstanding Natural Beauty, including their landscape, wildlife and geological interest, other than in the exceptional circumstances of:

- a) major development that is demonstrably in the national interest and where there are no alternative sites available or the need cannot be met in any other way; and
- (b) any other development that is essential to meet local social or economic needs.

Any such development must have regard to local distinctiveness and landscape character, and use sympathetic materials and appropriate design."

6.73 The NPPF, a material consideration in the determination of this application, recognises the importance of AONB's, stating at paragraph 115 that:

"Great weight should be given to conserving landscape and scenic beauty in [...] Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas, and should be given great weight in National Parks and the Broads."

6.74 The NPPF goes on to state at paragraph 116 that:

"Planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Consideration of such applications should include an assessment of:

- the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and
- any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.”

6.75 The Kent Downs AONB lies 2.5 km to the north west of the application site. Owing to the proximity of the AONB, the particular topography of the area and the scale of the proposed development the site is considered to form part of the setting of the AONB. In this respect, the ES concludes that the impact on the application on the longer distance views to the west and from the AONB would be neutral given the removal of large scale buildings and chimneys and replacement with modern industrial and residential buildings, coupled with the fact that the new development would be sympathetic to other industrial development nearby, effectively assimilating into that view. The Kent Downs AONB Unit confirms its agreement with those conclusions - that there would be a slight beneficial visual effect on the Kent Downs AONB subject to appropriate materials and landscaping. I concur with this view and therefore the proposed development would accord with adopted policy and the requirements of the NPPG in terms of AONB impact.

Historic Environment:

- 6.76 The impact of the development on the historic environment is addressed within the EIS Addendum Volume 1, Historic Environment Statement (Chapter 8) dated October 2016, which is supported by a Historic Environment Assessment. Within this context, the following extracts of the NPPF are relevant:
- 6.77 The term “historic environment” has been defined in the NPPF as; “All aspects of the environment resulting from the interaction between people and places through time, including all surviving physical remains of past human activity, whether visible, buried or submerged, and landscaped and planted or managed flora.”
- 6.78 Those elements of the historic environment that hold significance are called heritage assets and are defined in the NPPF as; “A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. Heritage asset includes designated heritage assets and assets identified by the local planning authority (including local listing).” Paragraphs 128, 132, 135, 137 and 139 of the NPPF are all of relevance and set out the detailed tests to be applied in terms of conserving and enhancing designated and non-designated heritage assets.

- 6.79 This chapter of the ES uses data derived in part from a desk-based Historic Environment Assessment undertaken in November 2015 and from site visits and walkovers. This assessment considers a study area of up to 1km radius from the site. Sources of data have comprised data held by the Kent County Council Historic Environment Record, acquired on 8th October 2015; data held by the Historic England Archive, Swindon, acquired on the 05 October 2015; the Magic website ([www.magic.gov.uk](http://www.magic.gov.uk)) and on the English Heritage National Heritage List for England, accessed during November 2015; a site walkover undertaken on 7th July 2016 to identify any historic industrial structures; a review of borehole data to assess Palaeolithic potential; other published, unpublished, or online information.
- 6.80 The ES sets out that the site has been the subject of extensive modern development including large multi-storey structures with thick concrete bases and indeterminate foundations, roadways and sub-surface drainage. It states that this land-use will have significantly reduced the potential for the survival of sub- or near-surface archaeological remains. Site borehole and trial pit data from geotechnical investigations indicate 'made ground' to nearly 2m in several places with limited evidence for subsoils – possibly indicating truncation. Only in the extreme south and southwest of the site has the land use been less intensive and where the potential for survival is greater, but even here there is evidence for intrusive groundworks and hard surfacing.
- 6.81 The ES correctly identifies that there are no designated heritage assets within the site and 25 within the broader study area (1km radius); these comprise six Conservation Areas, two Grade I Listed Buildings, two Grade II\* Listed Buildings and 15 Grade II Listed Buildings. The closest designated assets to the site comprise three listed buildings c 200m+ from the extreme southeast corner of the application boundary.
- 6.82 As part of the EIA, 12 possible non-designated heritage assets within the site were assessed, nine of which are associated with the former Aylesford Newsprint works. The nine include the buildings associated with the former print works. These date from between 1922 and 1958 and were concluded to have only negligible significance being industrial buildings associated with the paper making and recycling industry. Many were identified as being generic utilitarian structures housing machinery and plant that has been renewed over the years of operation of the plant. None were identified as being of particular historic or architectural significance.
- 6.83 The principal activities that may affect archaeological deposits will be those that give rise to direct physical impacts through truncation, removal, compaction and rutting during the construction phase of the development. These may arise through the use of land for temporary access, work compounds, re-profiling and landscaping, roads, foundation and piling. While many of the duration of many of these effects will be short-term the ES does acknowledge the potential physical effects on heritage assets can be permanent, irreversible and irreplaceable.

- 6.84 There are no impacts of operation identified. The settings of the Conservation Areas and Listed Buildings will not be affected by the proposed development.
- 6.85 As such, the ES concludes that it is in fact the industrial activity that took place on site that has some limited significance. This is recorded in a video of the operation of the plant by Aylesford Newsprint in 1996. The ES submits that this video sufficiently identifies the processes and history of papermaking at the site and should be supplied as an archive and record of activity at the site before the decline of the industry here. No mitigation is proposed to address the operational phase of the development and no residual effects have been identified.
- 6.86 Whilst I have no reason to doubt the conclusions drawn in these respects, as set out above, KCC have requested that further below ground assessments be carried out in the event that outline planning permission is granted. This is not an uncommon requirement by KCC and could adequately be secured by way of a condition requiring a watching brief be adopted to record anything of significance whilst construction takes place.

*Ecology and nature conservation:*

- 6.87 Local authorities have a statutory duty to have regard to conserving biodiversity as part of policy or decision making (section 40 of the Natural Environment and Rural Communities Act 2006). Policy NE2 of the MDE DPD seeks to protect, conserve and enhance the biodiversity of the Borough, whilst policy NE3 requires development that would adversely affect biodiversity to only be permitted if appropriate mitigation measures are provided. Paragraph 109 of the NPPF requires the planning system to contribute to and enhance the natural and local environment.
- 6.88 At Chapter 9, the ES sets out that there are no European protected sites within 2km of the application site. In terms of statutory designations, there are acknowledged to be 3 SSSIs, 1 local nature reserve and 1 AONB. In terms of non-statutory designations, there are 3 local wildlife sites within a 2km radius and three areas of ancient woodland. In addition to these, the site itself was divided into three key component parts and surveyed in detail in order to inform the ES.
- 6.89 The ES set out likely significant effects of the development (at both construction and operational stages) on matters pertaining to ecology and conservation in terms of the statutory sites (the SSSIs), habitats and species, and recommends mitigation measures in each instance to be carried forward in the event the development takes place.
- 6.90 To summarise, at the construction stage waste should be controlled within the site to ensure no leaching occurs into the river in order to ensure no effect on the SSSI. In terms of habitats and species protection during construction, mitigation would include ensuring that breeding birds were not disturbed, protection measures were introduced for trees to be retained across the site, necessary



licenses were obtained, further containment of waste to prevent leaching, avoidance of night time working, roosts and nesting provision provided in advance of any further demolition taking place. These mitigation measures would ensure a negligible effect arising from construction.

- 6.91 At the operational stage, mitigation would involve landscaping with predominately local native species, the creation of enhanced habitats for nesting birds and foraging bats, creation of a wildflower meadow, provision of additional landscape features along corridors, bird and bat boxes and bricks to be utilised in construction and design, sensitively designed lighting schemes and the creation of dark corridors through detailed layouts of gardens and public spaces. These mitigation measures would ensure a slight beneficial effect on ecology arising from the development once completed and operational.
- 6.92 Having considered the detail of the proposed mitigation in these respects and when taking into account the representations made by NE, I am satisfied that the mitigation proposed would ensure no harmful impact arising to the SSSIs, habitats or species and that once operational the scheme would contribute to the enhancement of biodiversity in the Borough in accordance with adopted policy.

*Land contamination and ground conditions:*

- 6.93 A large proportion of the site is dominated by large brick and steel industrial buildings that housed the paper pressing plant. A number of large storage tanks were also present in this part of the site which are understood to have been used for the storage of chemicals required in the paper making process. These buildings were connected by large areas of concrete hardstanding and roadways. The north-eastern portion of the site was dominated by the combined heat and power plant (CHP) and storage tanks were also accommodated in this part of the site.
- 6.94 The Waste Water Treatment Works (WWTW) occupied the eastern extent on the site. The ES suggests that anecdotal evidence suggests that an area in the northern portion of the works was used as a sludge bed for waste materials removed from the process during water treatment. The southern portion of the site is characterised by open areas of hardstanding and reservoir.
- 6.95 Paragraph 120 of the NPPF states that in order to prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

6.96 It goes on to state at paragraph 121 that planning policies and decisions should also ensure that:

- the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation;
- after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and
- adequate site investigation information, prepared by a competent person, is presented.

6.97 Paragraph 122 states that in doing so, local planning authorities should focus on whether the development itself is an acceptable use of the land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.

6.98 In these respects, Chapter 10 of the ES addresses land contamination and ground conditions and effectively summarises reports prepared in support of this application pertaining to baseline ground conditions, baseline ground investigations, quantitative risk assessments and ground conditions assessments. These are cited in full at paragraph 10.4.1 of the ES. Further investigative reports were also submitted in March 2017.

6.99

The conclusions of the investigation works indicate that without mitigation, the effect of contamination on human health controlled waters, ground gas effects and geotechnical risks at both construction and operational phases of the development would range from “major adverse” to “minor adverse”. As such, a suite of mitigation measures are put forward within the ES to address the effects at both stages. At the construction stage in terms of human health, these include a range of precautions to minimise the exposure of workers and the general public to potentially harmful materials including the development of appropriate health and safety plans and specific protection likely to include the use of dust suppression techniques, provision of wheel washing facilities, avoiding the stockpiling of contaminated materials, covering those materials on site and enclosing transportation vehicles. Other mitigation measures at construction phase would include provision of adequate drainage, correct handling and storage of

liquids/materials, use of appropriate tanks and bunding, procedures for the management of materials and chemicals, undertaking of appropriate risk assessments and use of appropriate machinery and tools. These are set out in full within paragraphs 10.6.1 – 10.6.8 of the ES.

6.100

In terms of the operational stage of the development, mitigation would be provided through the presence of hardstanding and building slabs, effectively breaking any pollutant linkages. Capping and protective membranes would be incorporated and the inclusion of a clean cover of capping soil would be incorporated into all areas of soft landscaping.

6.101

In terms of residual effects, the ES sets out that the significance would be negligible in all respects other than construction impacts in respect of controlled waters where it is said to be “minor adverse” although it is highlighted that the risk could be reduced at the detailed design stage when additional design and programme information is available. This would be a matter for the EA to comment on at the appropriate stage, having already recommended a series of planning conditions in respect of ground water and contamination within their detailed representations.

6.102

Despite areas of heavy contamination clearly having been evidenced, I am satisfied that a combination of remediation works in line with the mitigation set out within the ES including specific and detailed design measures would ensure the development took place in an acceptable manner in this regard.

*Open space, community facilities, infrastructure and planning obligations:*

6.103

Policy CP17 of the TMBCS states that in urban areas affordable housing provision will be sought on all sites of 15 dwellings or above at a level of 40% of the number of dwellings within that scheme (70%, affordable rent, 30% shared ownership). Only in exceptional circumstances should off-site provision be secured or a commuted sum provided in lieu of on-site provision. In this respect, the ES is somewhat vague, indicating only that a proportion of affordable housing would be provided and this would be dependent on overall viability considerations. In any event, there would be a requirement to provide for the policy position unless material considerations indicated otherwise. Nothing definitive has been provided within the socio-economic chapter of the ES in this respect, however an amended Planning Statement submitted on 10 March 2017 sets out that the viability work undertaken indicates that a policy compliant level of affordable housing provision could be provided. This would need to be secured by planning obligation in the usual way in the event that outline planning permission was granted.

6.104

Paragraph 162 of the NPPF recognises that local planning authorities should work with other authorities and providers to assess the quality and capacity of infrastructure for transport, water supply, wastewater and its treatment, energy (including heat), telecommunications, utilities, waste, health, social care, education, flood risk and coastal change management, and its ability to meet forecast demands.

6.105

In terms of health, social care and education, the assessment of this application has involved close liaison and consultation with KCC and the CCG and their detailed representations are included within Section 5 of this report. In most respects, financial contributions are sought in order to mitigate the increased demand generated by increased population numbers and some community provision is also shown within the layout plans submitted. However, the position in terms of education provision has rather less clear.

6.106

The ES originally set out that the increased population can be accommodated within current primary and secondary school places and healthcare facilities although there will be small adverse effects on the provision on early year's education as this is already at, or close to, capacity. This is contrary to the advice provided by KCC who state in their most recent response that the proposed development is forecast to give rise to 90 additional primary pupils who cannot be accommodated within forecast surplus capacity in local schools. Therefore, should the proposed development proceed, KCC consider that additional primary education places would be required. As a result, the scheme was amended in order to provide for an alternative masterplan to include a two form entry primary school within the site along with reference to the provision of a community facility. Again, this would need to be secured specifically through planning obligation in the event that outline permission was granted.

6.107

Information has been included within the submission in order to demonstrate that the proposed development would be viable when taking into account all necessary planning obligations in these respects. The detail of these obligations would have warranted further exploration had there not been fundamental issues in a number of key respects that are simply not capable of being addressed through a similar approach.

6.108

Although there are clearly elements of the scheme which could be satisfactorily controlled via planning obligation or condition to ensure it came forward in an acceptable manner (and these have been discussed in detail throughout the assessment), I have also highlighted a number of ongoing fundamental objections

to the scheme in its final form that cannot be adequately addressed in a similar way.

6.109

To reiterate, paragraph 203 of the NPPF requires the Council to consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 204 states that planning obligations should only be sought where they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. Similarly paragraph 206 states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

6.110

Regulation 122 of the CIL Regulations also sets out that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

- (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.

6.111

In all these respects, I continue to be mindful of the fact that the recent judgement discussed in the preceding assessment that has taken place provides a clear emphasis that purported mitigation of significant effects of a development in order to make it acceptable in planning terms should be such that it can be demonstrated as to how that mitigation will translate into practical measures, where success can be readily quantified, particularly when financial contributions are to be provided. In a number of key matters, this cannot be readily demonstrated or translated and such measures should not be accepted in the abstract.

6.112

The significant harms identified as arising through the proposed development in connection with highway safety, flooding and residential amenity cannot be suitably overcome in a manner that would meet the requisite tests, for the reasons set out in the detailed assessment.

*Consideration of alternatives:*

6.113

Schedule 4 of the EIA Regulations states that an ES should include an outline of the main alternatives studied by the applicant and an indication of the main reasons for the choice made taking into account the environmental effect. Whilst

the Regulations do not expressly require the applicant to study alternatives, the nature of certain developments and their locations (such as this) may make the consideration of alternatives a material consideration. Case law indicates that this does not go so far as to require those alternatives that have not been considered by the applicant to be covered or for the consideration of alternatives to be supported by full assessments. In this instance, the ES has sought to consider the “no development” alternative, alternative sites for the proposed development and alternative design options.

6.114

The “no development” option refers to leaving the site in its current state with the vacant works/buildings continuing to occupy the site or with those buildings demolished. The ES states that this option would result in the loss of opportunity to regenerate the site for residential and employment uses and that any benefits arising through the retention of trees and hedgerow habitats would be outweighed by the loss of employment potential. Consequently, the ES concludes this was not considered to be a suitable alternative.

6.115

No alternative sites were considered for the proposed development as the applicant has interests over the site and for reasons pertaining to its sustainable location and link credentials.

6.116

The ES states that the design of the proposed development has come forward in its final form following various iterations and the preferred masterplan option now for Members formal consideration was found to be the “most advantageous design solution.”

6.117

Given the high level constraints on and around the site identified as having significant effects which effectively are precluding the proposed residential development from coming forward at this time (in the absence of any further justification or evidenced mitigation that would allow for a different conclusion to be drawn) I would suggest that it would have been worthwhile for the applicant to consider in far greater detail the option of a comprehensive redevelopment of the site for employment purposes alone as a possible alternative. It is rather a leap to suggest that the only reasonable alternatives for the site would be the no development option or the scheme currently under consideration.

6.118

Equally, no consideration has been given within this context for the possibility of dividing the site into smaller portions for employment use or for considering other alternative uses other than residential. I appreciate that there is a need to secure the best value for the land in these circumstances and that would be represented by incorporating a degree of residential use but this only has a value in the event

that it can be successfully achieved and on this site in light of the constraints evident, there is no guarantee that this could happen.

6.119

Whilst this does not give rise to a specific ground of refusal and there is no explicit requirement for the applicant to have considered such options, it would have warranted discussion given that the grounds of refusal centre overtly on the capability of the site to accommodate residential use in light of the significant, overriding constraints on the site.

Conclusions:

6.120

I accept that in general terms, the redevelopment of an existing vacant site, particularly one of this size, would be of some economic benefit to the Borough. However, the introduction of residential use onto the site would be in conflict with adopted policy in terms of the overarching principles and would significantly diminish the amount of available employment land which would be available, of which there is an evidenced need across the Borough. There is no justification for allowing this to happen particularly in light of the fact that no analysis has been provided setting out that consideration has been given to the scope of the site to provide for a complete redevelopment for employment purposes, either as a whole or through subdivision or for alternative land uses which whilst may not strictly be employment land uses for the purposes of applying adopted policy might still generate employment. Furthermore, the submission itself notes that the increase in population arising from the provision of 450 dwellings within the site would not have any particular economic benefit in terms of increased localised spending. Furthermore, in this respect it is important to note that the presumption in favour of sustainable development arising from the lack of five year supply falls away because of the conclusions drawn regarding flood risk.

6.121

In addition to the overriding principle objection to residential use on this site, such a use would introduce sensitive receptors onto a highly constrained site giving rise to harmful impacts in terms of air quality, noise and odour for which no acceptable mitigation has been demonstrated or evidenced that would overcome the level of harm arising.

6.122

Equally, there has been an ongoing failure to adequately address the requisite sequential test in order to ensure that residential use, which is considered as more vulnerable within an area of flood risk in terms of applying the tests set out within the NPPF, is acceptable.

6.123

Detailed technical assessments undertaken by KHS and HE indicate that severe impacts on a number of junctions in the locality would arise should the

development take place. Demonstrated and evidenced mitigation to overcome the severe impacts at these junction is not available at this time and whilst financial contributions have been mooted by the applicant this would not adequately meet the necessary tests in securing planning obligations particularly given more recent case law concerning the need to ensure that financial contributions can successfully translate into actual measures to offset harm. I do appreciate that those junctions which are evidenced as improvements within the detail of the planning application, along with the opening up of Bellingham Way are likely to be supported in general terms by those living in the locality as a means of improving upon the existing situation they experience. However, in this respect I must make clear that the improvements put forward are designed with mitigation of impacts arising from the proposed development in mind rather than simply to improve upon an historic situation and should not therefore be seen as a justification for allowing the development to take place in their own right.

6.124

The application was submitted back in October 2016 and as Members will expect throughout the course of the application, Officers have made significant efforts to work with the applicant in an attempt to establish whether the outstanding issues could be overcome allowing for the development to come forward in an acceptable manner. It is clear that process has now become exhausted and whilst the applicant has been afforded the opportunity to withdraw the current application and seek to engage with the Council on potential alternatives for the site that accord with policy, this has not happened and it is necessary to make a determination on the scheme as it currently stands, in light of the technical evidence and statutory representations received. As such, the following recommendation is put forward:

**7. Recommendation:**

**7.1 Refuse planning permission** for the following reasons:

- 1 The redevelopment of the site in part for residential purposes and associated infrastructure, would result in a loss of designed employment land, for which there is no justification particularly in light of the identified need for such land across the Borough. The proposed development fails to safeguard the site for employment purposes and is therefore contrary to policy CP21 of the Tonbridge and Malling Borough Core Strategy 2007 and policy E1 of the Development Land Allocations DPD 2008.
- 2 The traffic movements that would be generated by the proposed development would have a severe impact on the wider highway network within the locality and in the absence of a scheme of evidenced, specific and deliverable mitigation measures to overcome the identified impact in totality the development is contrary to the requirements of policy SQ8 of the Managing Development and the



Environment DPD 2010 and paragraph 32 of the National Planning Policy Framework 2012.

- 3 The introduction of new residential development which is a more vulnerable land use, into an area with a high probability of flooding. The information provided in support of the planning application fails to meet the requisite sequential test and as such the development would be contrary to the requirements of policy CP10 of the Tonbridge and Malling Borough Core Strategy 2007 and paragraph 101 of the National Planning Policy Framework 2012.
- 4 The proposed development would introduce residential development within a 250m radius of a safeguarded waste management facility but has failed to provide a justification as to why the occupants of the proposed residential development would not experience unacceptable adverse amenity impact arising from the close proximity of this facility and therefore there has been a failure to demonstrate that suitable residential amenity can be achieved for future occupiers. The proposed development is therefore contrary to the requirements of Policy DM8 of the Kent Minerals and Waste Local Plan 2013 – 30.
- 5 The proposed development, by virtue of the inclusion of residential units within close proximity to waste water treatment works and in the absence of any evidenced, specific and deliverable scheme of mitigation to overcome odour impact arising from the works, would give rise to harmful impacts to the residential amenities of the future occupiers of those residential units. The proposed development is therefore contrary to the requirements of CP24 of the Tonbridge and Malling Borough Core Strategy 2007, policy SQ1 of the Managing Development and the Environment DPD 2010 and paragraph 58 of the National Planning Policy Framework 2012.
- 6 The proposed development, by virtue of the inclusion of residential units in close proximity to the M20 motorway and in the absence of any evidenced, specific and deliverable schemes of mitigation that would be technically achievable whilst not causing overt harm to the built environment and the resultant quality of the development as a whole, would give rise to an unacceptable aural environment to those residential units to the detriment of the residential amenities of future occupiers. The proposed development is therefore contrary to the requirements of CP24 of the Tonbridge and Malling Borough Core Strategy 2007 and paragraphs 58 and 123 of the National Planning Policy Framework 2012.
- 7 The Local Planning Authority cannot be confident on the basis of the evidence submitted that the proposed development could take place in a manner that would lead to an acceptable environment in terms of air quality as required by policy SQ4 of the Managing Development and the Environment DPD 2010.

Contact: Maria Brown

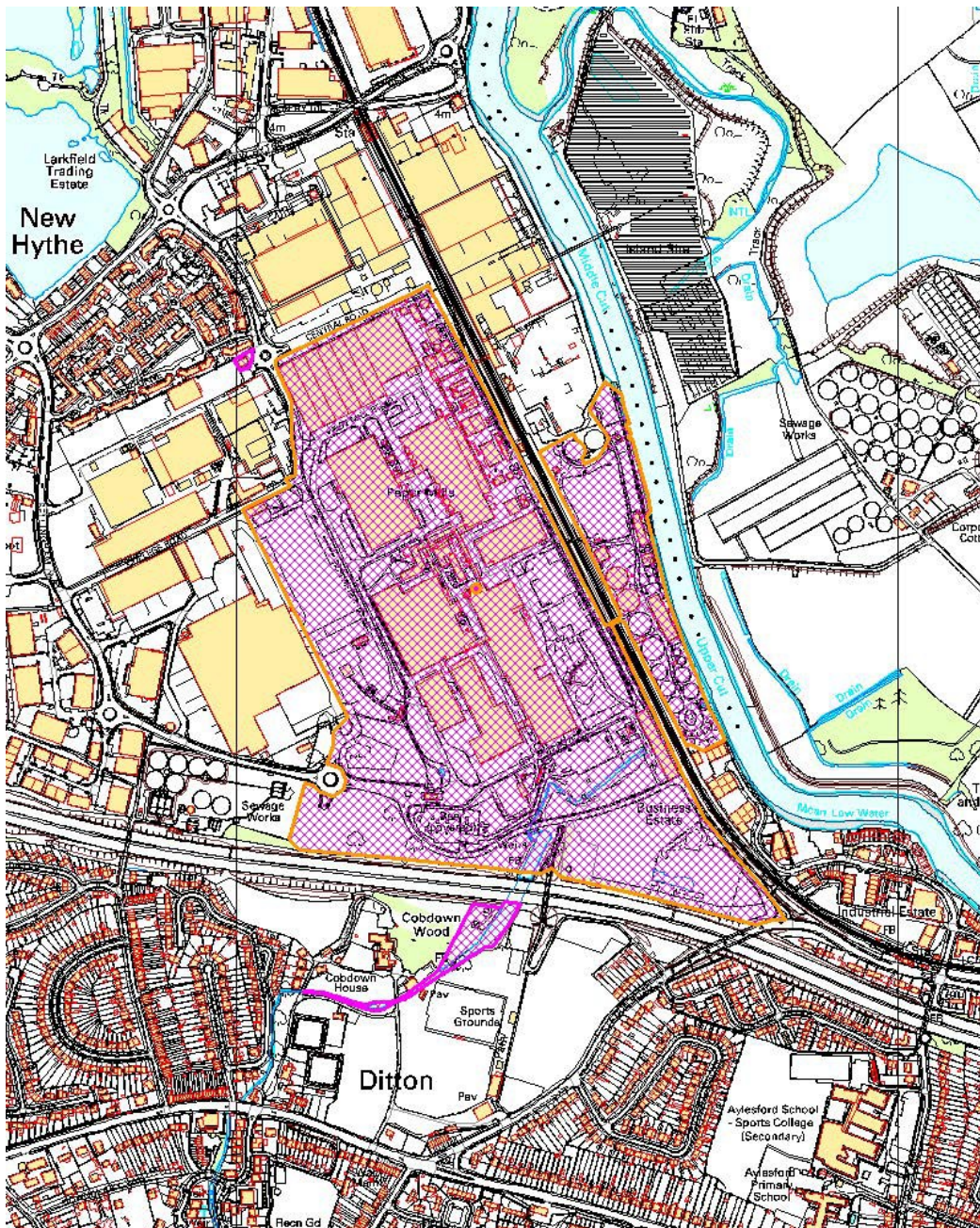
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**TM/16/03025/OAEA**

Aylesford Newsprint Bellingham Way Larkfield Aylesford Kent ME20 7DL

Outline Application for mixed use development comprising up to 120,500 sqm of B1, B2 and B8 employment space (GEA) and 79,000 sqm of residential land capable of accommodating up to 450 residential dwellings, including affordable housing, land for a two form entry school and a dedicated community facility, with appearance and landscaping reserved for future consideration

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# Agenda Item 7

The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

**ANY REPORTS APPEARING AFTER THIS PAGE CONTAIN EXEMPT  
INFORMATION**

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