

TONBRIDGE & MALLING BOROUGH COUNCIL



EXECUTIVE SERVICES

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: Democratic Services
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12 August 2020

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 online via Microsoft Teams on Thursday, 20th August, 2020 commencing at **6.30 pm**. Information on how to observe the meeting will be published on the Council's website. Deposited plans can be viewed online by using [Public Access](#).

PLEASE NOTE THE EARLIER START TIME FOR THIS MEETING

Yours faithfully

JULIE BEILBY

Chief Executive

A G E N D A

PART 1 - PUBLIC

1. Apologies for Absence
2. Declarations of Interest

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To confirm as a correct record the Minutes of the meeting of Area 3 Planning Committee held on 9 July 2020

Decisions to be taken by the Committee

4. Development Control 9 - 12

Introduction and Glossary

5. TM/18/02966/OA - Development Site South of Brampton Field between Bradbourne Lane and Kiln Barn Road, Ditton 13 - 72

Outline Application: Development of the site to provide up to 300 dwellings (Use Class C3) and provision of new access off Kiln Barn Road. All other matters reserved for future consideration.

6. TM/19/02841/FL - 675 London Road, Ditton 73 - 120

Demolition of existing buildings and erection of Class A1 foodstore with associated parking, landscaping and access works.

7. TM/20/00483/FL - Land between 166 and 194 Rocks Road, East Malling 121 - 138

Development of 2no. detached houses with associated gardens and parking.

8. TM/19/01814/OA - Development Site Land West of Winterfield Lane, East Malling 139 - 200

Outline Application: Erection of up to 250 new homes (40% affordable), new community building, provision of a new country park and other areas of public open spaces, areas of play, upgrade of existing footpaths, together with new vehicular access onto London Road and associated parking and landscaping.

9. 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

10. Exclusion of Press and Public 201 - 202

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.

Matters for Information

11. TM/19/01814/OA - Land West of Winterfield Lane, East Malling 203 - 210

(LGA 1972 Sch 12A Paragraph 5 – Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings)

The report provides legal advice on the consequences of taking decisions against the advice of officers.

12. 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 D A S Davis (Chairman)
Cllr M C Base (Vice-Chairman)

Cllr Mrs S Bell
Cllr T Bishop
Cllr R I B Cannon
Cllr D J Cooper
Cllr R W Dalton
Cllr Mrs T Dean
Cllr S M Hammond
Cllr P M Hickmott
Cllr A P J Keeley

Cllr D Keers
Cllr A Kennedy
Cllr D Lettington
Cllr Mrs R F Lettington
Cllr Mrs A S Oakley
Cllr R V Roud
Cllr Mrs M Tatton
Cllr D Thornewell
Cllr C J Williams

TONBRIDGE AND MALLING BOROUGH COUNCIL

AREA 3 PLANNING COMMITTEE

Thursday, 9th July, 2020

Present: Cllr D A S Davis (Chairman), Cllr M C Base (Vice-Chairman), Cllr Mrs S Bell, Cllr T Bishop, Cllr R I B Cannon, Cllr D J Cooper, Cllr R W Dalton, Cllr Mrs T Dean, Cllr P M Hickmott, Cllr A P J Keeley, Cllr D Keers, Cllr A Kennedy, Cllr D Lettington, Cllr Mrs R F Lettington, Cllr Mrs A S Oakley, Cllr R V Roud, Cllr Mrs M Tatton, Cllr D Thornewell and Cllr C J Williams

Councillors R P Betts, V M C Branson, N J Heslop, M A J Hood, S A Hudson, P J Montague, H S Rogers and N G Stapleton were also present pursuant to Council Procedure Rule No 15.21.

An apology for absence was received from Councillor S M Hammond

PART 1 - PUBLIC

AP3 20/12 DECLARATIONS OF INTEREST

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

AP3 20/13 MINUTES

RESOLVED: That the Minutes of the meeting of the Area 3 Planning Committee held on 4 June 2020 be approved as a correct record and signed by the Chairman.

DECISIONS TAKEN UNDER DELEGATED POWERS IN ACCORDANCE WITH PART 3 OF THE CONSTITUTION (RESPONSIBILITY FOR COUNCIL FUNCTIONS)

AP3 20/14 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 circulated in advance of the meeting and published to the website.

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 20/15 TM/19/01814/OA - DEVELOPMENT SITE, LAND WEST OF WINTERFIELD LANE, EAST MALLING

Outline Application: Erection of up to 250 new homes (40% affordable), new community building, areas of public open spaces, areas of play, upgrade of existing footpaths, together with new vehicular access onto London Road and associated parking and landscaping at land west of Winterfield Lane, East Malling.

RESOLVED: That consideration of the application be DEFERRED for a report from Legal Services on the risks arising from a decision contrary to the recommendation of the Director of Planning, Housing and Environmental Health (as set out in CPR 15.25, Part 4 (Rules) of the Constitution).

[The following representations were made by verbal statements:

- East Malling and Larkfield Parish Council (Christine Woodger)
- Kings Hill Parish Council (Sarah Barker)
- Leybourne Parish Council (Bob Ulph)
- West Malling Parish Council (David Thompson)
- David Cooper (on behalf of Jill Cooper) (members of the public)
- Keith Wood (member of the public)
- Liz Simpson (member of the public)
- Alan Gibbins (member of the public)
- Richard Brooks (on behalf of East Malling Conservation Group)
- Nigel Saunders (member of the public)
- Caroline King (member of the public)
- Keith Saunders (member of the public)
- Daniel Markham (member of the public)
- William Banks (member of the public)
- Jamie Pla (member of the public)

The following representations were made by written statements and read out by the Democratic Services Officers:

- Bernard Rawlings (member of the public)
- David Todd (member of the public)
- John Dean (member of the public)
- Edward Thackwell (member of the public)
- Ron Moore (member of the public)
- Barb Johnson (member of the public)
- Roger Mitchell (member of the public)
- Simon Shire (member of the public)
- Sarah Rayfield (member of the public)
- Rebekah Marsh (member of the public)

The following representations were made by video statement:

- Mark Hayton (member of the public)
- Tim Owen (member of the public)
- Rory Kemp (agent)]

AP3 20/16 TM/18/01106/FL - BELVIDERE OAST, 165 WATERINGBURY ROAD, EAST MALLING

Proposed new entrance to No.165 Wateringbury Road at Belvidere Oast, 165 Wateringbury Road, East Malling.

RESOLVED: That planning permission be REFUSED for the following reason:

- (1) The proposed development, by virtue of lack of suitable forward visibility splays for vehicles emerging from the proposed access, will cause unacceptable harm to highway safety and is, therefore, contrary to policy SQ8 (2) of the Managing Development and the Environment – Development Plan Document 2010 and paragraphs 108 and 109 of the National Planning Policy Framework 2019.

MATTERS FOR INFORMATION

AP3 20/17 TM/17/01595/OAEA - LAND SOUTH OF LONDON ROAD AND EAST OF HERMITAGE LANE, AYLESFORD

The report of the Director of Planning, Housing and Environmental Health provided an update on the progress of planning application TM/17/01595/OAEA at Hermitage Lane, Aylesford.

Particular reference was made to the progression of the s106 agreement between the Borough Council, the County Council, the applicant and the landowners, which was nearing completion. It was anticipated that the agreement would be completed within the next 6 weeks at which point the planning decision would be issued.

RESOLVED: That the report be received and noted.

PART 2 - PRIVATE

AP3 20/18 EXCLUSION OF PRESS AND PUBLIC

The Chairman moved, it was seconded and

RESOLVED: That as public discussion would disclose exempt information the following matters be considered in private.

MATTERS FOR INFORMATION**AP3 20/19 TM/18/01106/FL - BELVIDERE OAST, EAST MALLING****(LGA 1972, Sch 12A, Paragraph 5 – Legal Advice)**

The report of the Director of Central Services and Monitoring Officer outlined the potential consequences of granting planning permission against the advice of officers and the technical advice provided by Kent County Council Highways and Transportation Division (Minute AP3 20/16 refers).

RESOLVED: That the report be received and noted.

The meeting ended at 11.51 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.

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	20 December 2018	TM/18/02966/OA
Proposal:	Outline Application: Development of the site to provide up to 300 dwellings (Use Class C3) and provision of new access off Kiln Barn Road. All other matters reserved for future consideration	
Location:	Development Site South Of Brampton Field Between Bradbourne Lane And Kiln Barn Road Ditton Aylesford Kent	
Go to:	Recommendation	

1. Description:

1.1 Outline planning permission with all matters reserved for future consideration, except for access, is sought for the following development:

- The erection of up to 300 residential units - the illustrative masterplan shows the following mix of units
 - 24 x 1-bed flats with one and a half (averaged) parking spaces per unit
 - 6 x 2-bed flats with one and half (averaged) parking spaces per unit
 - 48 x 2-bed semi-detached houses with two parking spaces per unit
 - 27 x 3-bed semi-detached houses with two parking spaces per unit
 - 94 x 3-bed terraced houses with two parking spaces per unit
 - 12 x 3-bed detached houses with two parking spaces per unit
 - 9 x 4-bed semi-detached houses with two parking spaces per unit
 - 15 x 4-bed detached houses with two parking spaces per unit
- Provision of on-site affordable housing at 25%
- A Neighbourhood Equipped Area of Play (NEAP) in the southern part of the site
- Nine Local Areas of Play (LAP) throughout the site
- A new access from Kiln Barn Road and the creation of an internal looped road feeding a number of residential closes
- An emergency access from Kiln Barn Road
- Improvements to the New Road/A20/Station Road junction

1.2 Access is the only matter not reserved for future consideration and therefore full details of the proposed vehicular access have been provided. The access is to be taken from the west side of Kiln Barn Road. The carriageway at the junction to measure 6.5 in width with 2m footways either side. The visibility splay to the north to be 52m and 50m to the south.

- 1.3 An illustrative masterplan has been provided which sets out how a development of this nature and quantum could be laid out within the site. The overall design comprises a suburban centre, with a semi-urban section to the north and a more rural layout to the south and west, to respond to the wider setting of the site. The intention is to punctuate the southern boundary to allow for views through to the wider countryside. The submitted Design and Access Statement indicates that the units will be two storey. (For clarity no three storey buildings are shown on the illustrative masterplan.)
- 1.4 The proposed development was screened under TM/18/02556/EASC in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and found not to comprise EIA development. This does not mean however that the environmental impacts of the proposal will not be fully assessed and are done so later in this report.

2. Reason for reporting to Committee:

- 2.1 Due to the balance which needs to be made between diverging and significant policy considerations and in response to the high level of public interest.

3. The Site:

- 3.1 The site lies within the countryside, outside the defined settlement confines of Ditton. It comprises 11.58 hectares and was formerly used for agricultural research purposes. The site appears reasonably level although actually slopes downwards to the north. The site currently comprises open fields and orchards. A group of agricultural buildings are located in the south of the site, but are unused and in some disrepair.
- 3.2 The site is bounded to the west by a ragstone and brick wall, with existing farm cottages and office buildings beyond. The north west corner of the site abuts the Bradbourne East Malling CA.
- 3.3 A substantial mature hedge forms part of the northern site boundary with the dwellings on Cherry Orchard. Cherry Orchard comprises a residential estate of semi-detached and detached dwellings dating from the 1970s. The northern boundary with the residential dwellings on Wilton Drive and Brampton Field is more open, with post and rail fencing. The dwellings on Wilton Drive are semi-detached and date from the 1960s. The dwellings on Brampton Field are of mixed character and date from the 2000s.
- 3.4 The eastern site boundary comprises an established hedge with Kiln Barn Road and Ragstone Court to the east. Ragstone Court is a residential cul de sac of detached dwellings comprising the redevelopment of part of the former Ditton Court quarry in the 1980s.

- 3.5 The southern site boundary comprises a line of trees forming a wind break with agricultural land operated by the EMT to the south. A PROW MR100 crosses the western part of the site with a line of mature trees following the route. The trees do not benefit from any Tree Preservation Order.
- 3.6 The site lies within Flood Zone 1 and Groundwater Protection Zone 2. For clarity the site does not lie within a CA or immediately adjacent to any listed buildings. However Bradbourne House is located to the north west and the wall forming the western boundary of the site was formerly part of the wider setting of this grade I listed building.

4. Planning History (relevant):

TM/18/02556/EASC screening opinion EIA 15 November 2018
not required

Request for Screening Opinion under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011: New residential development of up to 300 residential dwellings (Use Class C3) with car parking, cycle parking, landscaping and public realm works

5. Consultees:

5.1 Ditton PC:

Original representation received 24 January 2019

5.1.1 Ditton Parish Council asks that this be accepted as this Council's initial objection to this application on the grounds that the existing highways in and out of the village and lack of infrastructure cannot support this level of development. Owing to the overwhelming level of objection received from local people, and the additional documents only just delivered to the Parish Council, the Parish Council will be making further representations of objection to this application when it has had chance to review all the information that has been made available.

Representation received 18 March 2019

5.1.2 As the result of a Public Open Session at a Meeting on 14th January 2019 held by Ditton Parish Council regarding the Ditton Edge Development, which was packed with local residents, the Parish Council heard many various concerns.

5.1.3 People with personal and individual concerns were advised and encouraged to make their personal representations directly to Tonbridge & Malling Borough Council Planning Department.

5.1.4 The Parish Council supports the main issues of concern of residents as below:

- 5.1.5 The road infrastructure from the development provides little alternative from the existing highway link, used by current Ditton residents including their ancillary vehicle movements. Turning North into Kiln Barn Road following through to New Road in order to meet the A20 about half a mile away. This stretch of highway, which contains a 'hair pin' bend, is a narrow carriageway within a totally residential area. The road is apparently unclassified with parked vehicles outside of residential properties along New Road on the approach to the A20. Ditton Church of England Junior School where certain children suffer from the effects of vehicle omission pollution (Asthma), is also sited along this stretch of road. At this point, during school opening and closing times the level of traffic is particularly heavy.
- 5.1.6 The link on to the A20 is controlled by traffic lights which allows only a few vehicles to exit New Road at a time, which, even currently, causes a regular build up of vehicles, the alternative route on to the A20 is via a 'rat run' through St Peters Road and Bradbourne Lane which is a totally residential area with on street parking. This stretch of road twists and turns through the estate and is located close to the school. The Highway in this area is also unclassified.
- 5.1.7 The development scheme would have a disastrous effect on the road usage as it is estimated that including residential and all ancillary vehicles some 1500 additional vehicles journeys would take place along the half mile from the development to the A20 and return on a daily basis. There is no logical scheme to improve the existing situation to meet the demand, or indeed solve the entry and exit from the A20. The new development would be estimated to increase the local unclassified road use by more than 200%.
- 5.1.8 It is estimated that the excessive increase in traffic movements would also vastly attract the ancillary problems of road use in relation to queues, accidents and traffic offences along Kiln Barn Road, New Road, St Peters Road and Bradbourne Lane.
- 5.1.9 The environmental impact associated with the vast increase in vehicle use would have a devastating effect on the current residential properties, school and popular recreational areas.
- 5.1.10 The sewage system and water supply to and from the new development would struggle to cope if linked to the current system.
- 5.1.11 The plan for the new development does not include essential services such as doctor's surgery, dentist, and school which the local facilities of such are currently over stretched for the existing residents.
- 5.1.12 The development would cause the loss of quality agricultural land, be harmful in ecology terms and create a negative visual impact on the rural lane, the countryside surrounding the village, and existing residential properties and its vastness would ruin the traditional layout and attraction.

5.1.13 The change of use of the land for residential housing is not set out within the Borough's Local Plan for the consideration of development and it is confusing as to the change of thought of inclusion in the recently submitted plan particularly when there are many negative issues to overcome at this particular location.

5.1.14 At present, this area of land is not officially earmarked for development and is shown as agricultural land. It would be premature to allow the development pending the draft plan going through the public examination procedure. To do so would undermine the Local Plan procedures, including proper considerations of the objections raised.

5.1.15 Information from KSL PLANNING at the Environment Agency states - apparently, the proposed development site is located upon Hythe Beds, which is a sandy limestone and 'hassock', which is loose sandstone. We all are aware after previous 'horror stories' that sink holes can easily develop within Hythe Beds.

5.2 EM&L PC:

5.2.1 This site is wholly within Ditton parish and therefore we are leaving that parish to comment both on the principal of the proposed development and the details of how it could affect Ditton parish. However we are obviously aware the site is allocated in the draft Tonbridge and Malling Local Plan forming part of the Borough Councils strategy to meet the Governments housing targets. Given this we would wish to comment on the matters that follow.

5.2.2 We note many of the representations being received relate to the impact on the local highway system. There is concern generally about the capacity of the A20 from its junction with the A228 through to the Maidstone Borough boundary and the parish council with other local councils have been involved with meetings about how the various junctions could be improved, particularly within highway limits, to ease traffic flows. These meetings have included consideration of the A20/New Road/Station Road junction from which there is often queuing especially at peak times sometimes as far back as Larkfield. If this site is approved its main impact will be on this junction and it would be helpful if actual proposals for the junction could come into the public domain. And also if KCC will be seeking a contribution from this development for any changes to the junction.

5.2.3 It is important that in considering this application the A20 be the focus of attention in highway terms as otherwise traffic from the development could seek to go south along Kiln Barn Lane and Easterfields with the network of lanes beyond which are in large sections single track with poor visibility and totally unsuitable for extra traffic. And it would spoil the rural nature of these lanes which are used by horse riders and walkers.

5.2.4 It should also be borne in mind the restricted nature of the railway bridge at Kiln Barn Lane and East Malling High Street. These coupled with the nature of the lanes makes them completely unsuitable for construction traffic.

5.2.5 The parish council also wishes to underline the importance of public footpath MR100 which runs from Ditton Church through the research grounds to East Malling Church. It is much used by local walkers and people going to East Malling station from Ditton. It will be affected by the development and we would ask the development if permitted should take into account its route so it is clear and if necessary waymarked. It should not be turned into a narrow alley. We would also ask as a feature the old estate wall be kept which is also important for historic reasons and contributes to a sense of place as ragstone walls are a feature of the local area.

5.2.6 And lastly if this site does go ahead there should be a boundary and landscaping condition so the southern boundary is not “hard” with just gardens and fences at the end but a “soft” one that blends into the general landscape. This also would be important for views of the site when coming north along the public footpath and distant views from the Greensand ridge running through the south of these parishes. Views such as from Easterfields and Sweets Lane areas including from footpath MR108 from which there are really good views of the Medway Gap.

5.3 KCC (H+T) – Reproduced in full at Annex 1

5.4 PROW: Unfortunately, the treatment of public footpath MR100 has not been well considered and the proposed main access road will run adjacent to the PROW. We ask that the applicant considers an alternative layout to accommodate the PROW within a wide green corridor of open space, away from the main access road, providing new residents opportunities for recreation, active travel and exercise. At the very least we ask that the applicant considers a wider buffer between the road and the PROW. (See additional comments offered in the KCC (H+T) response received 13 February 2020 above.)

5.5 EA:

Original representation received 18 January 2019

5.5.1 No objection subject to planning conditions

Representation received 15 February 2019

5.5.2 The updated Flood Risk and Drainage Strategy by Ardent (182600-01A) dated January 2019 has been reviewed. Although we do not object to the proposed drainage strategy at this stage we feel that the following points should be addressed as the design stage moves forward.

5.5.3 Section 5.7 of the report states that boreholes will extend to a depth of 5m below ground level. Groundwater has been recorded at approximately 10m bgl by Southern testing therefore a borehole extending to a depth of 5m bgl would be acceptable in principle as an unsaturated zone is present between the base of the borehole and groundwater, and therefore there is no direct discharge to

groundwater. Again we would like to stress that we would not allow deep boreholes to extend to depths which would result in a direct discharge to groundwater.

5.5.4 We are aware of previous site investigations at historical waste sites to the south of the proposed development where contamination of groundwater was identified. The extent of this groundwater contamination is unknown. We therefore feel that groundwater sampling should be carried out to inform the proposed drainage strategy. This will allow the applicant to determine baseline groundwater quality conditions prior to any development. This will then allow the applicant to determine any impacts the proposed drainage strategy may have on groundwater quality, but also will aid in determining any risks that contamination within groundwater may pose to end users of the site i.e. migration of vapours from contaminated groundwater.

5.6 KCC (LLFA):

Original representation received 24 January 2019 (extract)

5.6.1 Whilst the development layout is indicative, it appears that little consideration has been given to the incorporation of SuDS within the site masterplan and limited space has been reserved for surface water that has not been controlled at source.

5.6.2 Paragraph 165 of the National Planning Policy Framework (July 2018) also promotes the inclusion of SuDS which provide multifunction benefits where possible, including those which provide water quality, amenity and biodiversity benefits throughout the entire development.

5.6.3 We would recommend that the drainage design manages surface water as close to source as possible in accordance with sustainable drainage principles to avoid end of pipe solutions for all surface water. We would promote infiltration to be spread throughout the development at shallower depths (for example with property level soakaways, permeable surfaces etc.). This is particularly important in the Hythe Formation where concentrated discharges of surface water are likely to result in a risk of washout or ground instability.

5.6.4 Borehole tests undertaken at the site show groundwater was encountered at varying depths of which water rose to the highest level of 10.2m bgl at borehole 3. From the outline strategy deep bore soakaways would be 10 metres deep. It is essential that a sufficient unsaturated zone is provided between the invert levels of each soakaway and any groundwater. We would recommend that groundwater monitoring is undertaken at the site to observe any changes to the depth of groundwater. As the site lies in Groundwater Source Protection Zone 2, discussion with the Environment Agency's Groundwater Protection Team is recommended to determine the unsaturated zone required.

5.6.5 We advise that Infiltration into the underlying geology will need sufficient pollution control to be incorporated into the design to ensure that there would be no unacceptable risk of pollution to groundwater. We would recommend this is assessed using published guidance such as the water quality chapters of the CIRIA SuDS Manual 2015.

5.6.6 Therefore, we would object to the current proposal pending the receipt of further information for review. At present we cannot determine that a deliverable drainage scheme exists for the development. The revised drainage strategy will need to demonstrate a feasible scheme can be incorporated into the proposed site master plan / layouts to serve this proposed development.

Representation received 1 March 2019 (extract)

5.6.7 Option 1 for disposing surface water through soakaways will need further ground investigations to demonstrate groundwater levels and to ensure sufficient infiltration rates can be achieved. We recommend groundwater monitoring is undertaken to inform future design. It would be our preference that surface water is managed and disposed of to ground within the development unless it is expressly demonstrated to be unviable.

5.6.8 Should discharge off-site be required, we would highlight that we disagree with the greenfield run-off rates proposed. These appear to be based upon a SPR value of 0.4, which is not appropriate to this geological setting. The soils at the site are considered to be of an intermediate permeability at the surface, underlain by the highly permeable Hythe Formation.

5.6.9 Our Drainage and Planning Policy Statement states that in areas of intermediate permeability soils *'infiltration should still be maximised, with any residual discharge to watercourses or sewers requiring the provision of long-term storage; offsite discharge should be limited to QBAR, (the mean annual flood flow rate, equivalent to an approximate return interval of 2.3 years)'*.

5.6.10 The illustrative layout included within this application does not provide significant areas of open space across the development and it is assumed any attenuation would be need to be accommodated within the open space on the northern boundary. Any utilisation of deep bore soakaways would require a separation distance of 10 m and this may impact the proposed illustrative layout.

5.7 SWS: (extract)

Southern Water has undertaken a desk study of the impact that the additional foul sewerage flows from the proposed development will have on the existing public sewer network. This initial study indicates that there is an increased risk of flooding unless any required network reinforcement is provided by Southern Water. Any such network reinforcement will be part funded through the New Infrastructure Charge with the remainder funded through Southern Water's Capital

Works programme. Southern Water and the Developer will need to work together in order to review if the delivery of our network reinforcement aligns with the proposed occupation of the development, as it will take time to design and deliver any such reinforcement. Southern Water hence requests that a relevant planning condition is applied.

5.8 HE: No objection

5.9 KCC (Heritage): No objection subject to an archaeological watching brief.

5.10 KCC (Economic Development): Contributions sought as follows:

- Primary Education - £4535 per house and £1134 per flat towards phase 1 of a new Aylesford Primary School
- Primary Land - £3208.18 per house and £802.05 towards land acquisition for a new Aylesford Primary School
- Secondary Education - £4115 per house and 1029 per flat Aylesford School enhancement of teaching space
- Community Learning – total of £9770.80 towards Aylesford School Adult Education Centre, additional equipment for new learners
- Youth – total of £4041.06 towards Aylesford Youth Club
- Libraries – total of £15,116.04 towards Larkfield Library enhancement and additional bookstock for the new borrowers
- Social Care – total of £16,770 towards the Aylesford Priory changing place facility
- 3 wheelchair adaptable homes as part of the on-site affordable homes delivery

5.11 KFRS: The means of access is considered satisfactory

5.12 Kent Police: Welcome further discussions with the applicant to ensure Safety by Design standards are met

5.13 CCG: A contribution of £252,720 is sought towards refurbishment, reconfiguration and/or extension at Thornhills Medical Centre, Wateringbury Surgery and/or West Malling Group Practice.

5.14 KWT: No response

5.15 NE: No comment

5.16 Leisure Services: If not provided on site the following contributions to be sought:

- Parks & Gardens - £365,883
- Amenity Green Spaces - £66,695
- Outdoor Sports Facilities - £671,268
- Children's and Young People's Play Areas - £88,142
- Natural Green Spaces - £140,411

5.17 Environmental Protection:

5.17.1 **Contaminated land** - This site forms part of the wider East Malling Research facility, and as such is identified as potentially contaminated land. It is not known what kind of chemicals, if any, have been used on this site in association with the agricultural research activities. There is also a historic landfill site on the North West boundary of the site. I would therefore recommend planning conditions:

5.17.2 **Noise** - The Applicant has submitted a Noise Assessment carried out by their consultant Ardent Consulting Engineers (their ref 182600-08, dated December 2018).

5.17.3 The report details measurements of site noise levels taken at two representative locations at the proposed site. The report has compared these with maximum levels cited in BS8233:2014 and given recommendation as to construction type/specification to ensure that suitable internal levels will be achieved. I would concur with the information.

5.17.4 The report does not, however, appear to have considered the 'windows partially open' scenario, and whether additional ventilation is required. This issue is referred to in the notes accompanying Table 4 in para 7.7.2 of BS8233:2014, and that if the levels stated can only be achieved with windows closed, then consideration needs to be given to the provision of a satisfactory alternative means of ventilation. I believe that this may be an issue for properties fronting onto Kiln Barn Road and may be a matter for which additional, more specific information can be provided at the full application stage.

5.17.5 The Assessment has also considered the effect of the additional traffic generated by the proposal upon the wider environment and assessed this, taking into account projected traffic increases to 2031. The report calculates that the noise increase due to traffic from the proposed development would be approximately 2.9dB, which is marginally below the commonly accepted minimum detectable change of 3dB.

5.17.6 The Assessment has also briefly considered construction noise, but as this is for an Outline Application, no specifics are available for consideration. If felt

necessary, the Applicant could seek a Section 61 Prior Consent under the Control of Pollution Act 1974 from the Council.

5.17.7 In conclusion, I do not consider that noise will be a limiting factor on this Outline application, but that additional information will be required once the layout has been finalised.

5.18 Private Reps: 70+ site + press notices: 4X/539R/0S. Objections raised on the following grounds:

- Traffic surveys should be revisited and carried out at peak times not during school holidays. Surveys not considered the new Lidl development. The traffic data is confusing. Need to review safety audits. Dangerous junction with Donderry Way not considered.
- New Road, St Peters Road, Sweets Lane and Bradbourne Lane cannot accommodate the additional vehicle traffic movements and will become further congested and dangerous, particularly to children. A20 and Hermitage Lane is beyond capacity with traffic jams at the traffic lights. Congestion will inhibit emergency vehicles. More congestion when the M20 is blocked. Congestion results in loss to businesses.
- Bradbourne Lane has no footpath. No footpath was constructed by EMT to the former Laboratories site on Kiln Barn Road.
- Problems with construction traffic.
- A single access is unacceptable, needs a second access point. Needs a new road through the EMT site to redirect traffic.
- The roads in Ditton cannot be improved.
- PROW route needs amending.
- Insufficient parking at the stations. Road is often flooded under the railway bridge.
- If there will be 1669 vehicle movements this means 834 vehicles, a shortfall of more than 200 spaces. The scheme therefore needs redesigning.
- People own several cars these days.
- Lead to dangerous pavement parking.
- No electric charging points.

- Disturbance will be detriment to the standard of living of all residents. Increased light and noise pollution, from traffic and occupants. Overlooking, loss of privacy light and outlook to existing dwellings
- Increase in air pollution – nitrogen dioxide and CO₂, and impacts on health, particularly children.
- Damage to existing homes, the community and the local area. Recycling arrangements already inadequate.
- Increase in crime, insufficient policing.
- Would increase the population of Ditton by more than 10% without upfront infrastructure improvements.
- No jobs to accommodate increase in population.
- Insufficient school places. Insufficient medical facilities, adverse impact on doctor's surgeries, dentists and hospitals, already difficulty getting appointments. Services are not provided despite an increase in council tax. Impact of increased number of residents on the crematorium.
- Sewers at Brampton Fields are overloaded. Additional impact on water, electricity and sewerage.
- Potential land contamination from research chemicals.
- Local geological conditions include sink holes. Create problems with Suds infiltration.
- Development should be on land designated between Kiln Barn Road and Hermitage Lane. TMBC should prioritise brownfield rather than greenfield sites
- Reduction in wildlife habitat.
- The tall pine trees and smaller trees opposite the junction of Ragstone Court must be kept. Who will maintain the retained trees to the rear of Bradbourne Fields?
- Hardstanding will increase the risk of surface water flooding. The proposed pond will be subject to flooding, insects, and smell and be dangerous to children. New Road and Kiln Barn Road have both previously flooded.
- The dwellings should not be higher than two storey. Flats unsuitable as none in the area.

- Will remove views of pear orchards and East Malling church. Loss of separation between existing settlements. Will erode the setting of Bradbourne House.
- Kent is at breaking point.
- Ditton village and community will be lost.
- The impacts will far outweigh the benefits. No benefits to the surrounding area.
- Devalue house prices.
- The description is inaccurate and should include scale and point 8 states parking is not relevant however the application includes parking spaces. Point 16 is inaccurate as agricultural buildings will be lost.
- Application should be heard at Committee and not dealt with under Delegated Powers.
- Premature in advance of the local plan process.

6. Determining Issues:

Principle of development:

- 6.1 The LPA is under a statutory duty to determine planning applications in accordance with the adopted Development Plan, unless material considerations indicate otherwise. The Development Plan currently in force comprises the TMBCS (September 2007), the DLA DPD (April 2008), the MDE DPD (April 2010) and the saved policies of the TMBLP. The NPPF and guidance contained within the associated NPPG are material considerations.
- 6.1 The site lies to the immediate south of the confines of Ditton, within the designated countryside. Policy CP14 of the TMBCS seeks to restrict development in the countryside and whilst it includes circumstances where development can be acceptable, the introduction of up to 300 dwellings does not fall within one of the exceptions listed. The proposal is therefore contrary to this development plan policy. However, TMBC cannot presently demonstrate a five year supply of housing and in this context CP14 has been confirmed by recent appeal decisions to be out of date and cannot therefore provide any justification to resist the development in terms of broad principles.
- 6.2 In the absence of a 5 year housing supply the presumption in favour of sustainable development must be applied. For decision taking, this is set out at paragraph 11 of the NPPF as follows:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, granting permission unless:

i. the application of policies within this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

6.3 Dealing firstly with paragraph 11 d) (i), Footnote 6 of the NPPF provides a closed list of those restrictive policies that relate to protected areas and assets of particular importance. Designated heritage assets are specifically referenced. Although there are no designated heritage assets within the site I am aware that the north west corner of the site abuts a CA, and the ragstone and brick wall which forms the western boundary of the site once delineated the parkland associated with Bradbourne House. For completeness it is therefore necessary to assess the application with regard to the relevant policies of the NPPF that protect heritage assets in order to determine, in the first instance, whether there is a clear reason to refuse the proposed development.

Impact designated heritage assets and their settings:

6.4 There is a statutory duty on decision-makers to have special regard to the desirability of preserving listed buildings and their settings. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

6.5 Similarly, section 72 of the Act requires that special attention must be paid to the desirability of preserving or enhancing the character or appearance of these areas, in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

6.6 Section 16 of the NPPF relates specifically to conserving and enhancing the historic environment. Applicants are required to describe the significance of any heritage assets affected, and LPAs to identify and assess the particular significance of any heritage asset that may be affected by a proposal. The section clearly sets out what LPAs should take account of in decision making and that any potential impact is considered in relation to the significance of the heritage asset

potentially affected. Paragraphs 194 – 196 and the NPPG provide further clarification on this method of assessment. The method requires potential harm to designated heritage assets to be categorised as either substantial (which includes total loss) or less than substantial harm, in order to determine which of the policy tests should be applied. However, within the category of “less than substantial harm” it is accepted in case law that a decision maker must take a view as a matter of planning judgement as to the level of harm within that category.

- 6.7 In addition, and of particular relevance to the current application, the guidance makes it clear that the significance of a heritage asset derives not only from its physical presence but also from its setting. The site does not contain any designated heritage assets but it remains important to determine whether the site impacts on the wider setting of the CA or Bradbourne House which is a Grade I listed building.
- 6.8 It is necessary therefore to identify the relevant heritage assets; identify the settings of the relevant heritage assets; and determine whether the proposal will result in substantial harm or less than substantial harm. If less than substantial harm the level of that less than substantial harm will be determined. Further guidance on such matters can be found in the NPPF and Historic England’s The Setting of Heritage Assets Historic Environment Good Practice Advice in Planning Note 3 (Second Edition) 2017.
- 6.9 The guidance requires the identification of which heritage assets and their setting are potentially affected. For clarity the NPPF glossary states that - “The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.”
- 6.10 The potentially relevant significant heritage assets are identified as Bradbourne House (Grade I listed) and the associated Bradbourne East Malling Conservation Area. The CA surrounds Bradbourne House and its associated Grade II listed outbuildings and it can reasonably be concluded that the CA was so designated as to reflect the extent of the historic setting of Bradbourne House and its associated outbuildings. However it is a matter of planning judgement as to the continued significance of the former parkland in terms of the wider setting of Bradbourne House.
- 6.11 Historic England acknowledges the importance of Bradbourne House but notes that although the site lies to the east of Bradbourne House, it is outside the historic park boundary, and although the site is adjacent to the conservation area it is obscured from the house and conservation area by farm buildings and trees and also lies adjacent to existing modern development. For these reasons, HE state that they do not think the proposed development would cause harm to the CA or to the significance of Bradbourne House due to the relative distance and features

which lie between the heritage assets and the site. HE therefore do not have concerns on heritage grounds. I conclude that the proposed development falls beyond the setting of the heritage assets and therefore the heritage assets will not suffer any harm. Consequently it is not necessary to carry out any further analysis regarding levels of potential harm. Owing to the absence of any direct impact on any designated heritage assets or their wider setting there is no clear reason to refuse the proposed development on this basis.

6.12 It is therefore necessary to turn to paragraph 11 d) (ii) to determine whether the proposed development would result in any adverse impacts that would significantly and demonstrably outweigh the benefits of the development when assessed against the policies in the Framework as a whole. It is on this basis that the remainder of my assessment takes place.

Location of development:

6.13 Paragraph 79 of the NPPF states that “planning policies and decisions should avoid the development of isolated homes in the countryside”. Whilst the site is located within the designated countryside, it lies immediately adjacent to a defined urban area.

6.14 The site lies immediately adjacent to the southern confines of Ditton. The pedestrian links to the site are good. PROW MR100 allows access to the north to Ditton Community Centre and recreation ground, the primary school and the church. The site is within reasonable distance from the A20 which is a major bus route. The PROW MR100 also provides access to the south west, which links into PROW MR102 to provide access to the facilities and main line station of East Malling. Future residents would not therefore be solely reliant on the private car as the primary mode of transport. The development is not therefore isolated in any way.

6.15 The NPPF states at paragraph 7 that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 of the NPPF states that the planning system has three overarching objectives to achieving sustainable development, these being an economic objective, such as ensuring adequate land is available to support growth and enable the provision of infrastructure; a social objective, such as ensuring a sufficient number and range of homes can be provided to meet the needs of present and future generations as well as accessible services and open spaces; and an environmental objective, ensuring that effective use is made of land, helping to improve biodiversity and protecting and enhancing the natural, built and historic environment.

6.16 It is considered therefore that the location of the site and the type of development proposed would be considered sustainable development under the relevant paragraphs of the NPPF.

Impact on character and appearance:

- 6.17 Paragraph 122 of the NPPF 2019 requires that planning policies and decisions should support development that makes efficient use of land, taking into account:
- a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;
 - b) local market conditions and viability;
 - c) the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;
 - d) the desirability of maintaining an area’s prevailing character and setting (including residential gardens), or of promoting regeneration and change; and
 - e) the importance of securing well-designed, attractive and healthy places.
- 6.18 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 new development to protect, conserve and, where possible enhance the character and local distinctiveness of the area. The aims of these local plan policies are echoed in paragraphs 127 and 130 of the NPPF.
- 6.19 Paragraph 127 of the NPPF sets out that planning policies and decisions should ensure that developments:
- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
 - c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
 - d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
 - e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
 - f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and

where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

- 6.20 Paragraph 130 of the NPPF sets out that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).
- 6.21 Policies SQ1 and CP24 are broadly in conformity with paragraph 127 and 130 of the NPPF and therefore these local plan policies remain up to date for decision making purposes.
- 6.22 To the north of the site is residential development, with sporadic development to the north west. The eastern site boundary comprises Kiln Barn Road with development beyond, and to the south and south west lie open fields. The illustrative masterplan has been designed to respond to the wider setting of the development site and comprises a suburban centre, with a semi-urban section to the north and a more rural layout to the south and west.
- 6.23 An Arboricultural report has been submitted which identifies the best quality trees. These are to be retained and are reflected in the indicative layout. The trees along the northern site boundary are to be retained, and will continue to provide a visual barrier between the existing and proposed residential development. There will be long views from the south and south west towards the proposed development and therefore the more rural layout in these areas is appropriate. This will help to soften the visual impact of the overall proposed development. Additional tree planting is proposed in the south west corner of the site and whilst planting is also proposed to the southern boundary, the intention is to punctuate this boundary to allow for views through to, and from, the wider countryside. The recommendations of the submitted Arboricultural Report includes the incorporation of native species planting of local provenance, and those of known value to native wildlife. This is acceptable and will increase the biodiversity of the site, although the precise nature of the proposed landscaping can be considered at the reserved matters stage.
- 6.24 A LVIA has been submitted as part of the planning application. A LVIA is required to consider the following aspects when assessing the landscape and visual effects of a proposed development;

- Assessment of landscape effects: assessing the effects on the landscape as a resource in its own right, and
- Assessment of visual effects: assessing the effects on specific views and on the general visual amenity experienced by people.

6.25 The site is not the subject of any specific landscape designation. The site is not dissimilar in character to the wider landscape, particularly to the EMT land to the south, and does not contain any site specific or rare features. It is the site boundaries of mature vegetation and the mature trees along the PROW which contribute most significantly to its character.

6.26 The development proposes extensive landscape planting which will render the development largely visually contained, although the proposed removal of various parts of the existing windbreak trees to the southern boundary will create glimpsed views of the open agricultural land beyond. I appreciate that the site is visible to PROW users and to the existing dwellings, particularly those of the northern boundary. However Members will appreciate that the planning system does not recognise a private right to a view and therefore the mere fact that the development will be seen by the existing residents and PROW users is not, in itself, a material planning consideration.

6.27 I consider that the indicative masterplan has demonstrated that a detailed scheme could come forward in a manner that would ensure no unacceptable impact on the character of the wider locality. Although subject to further design detail and public consultation at reserved matters stage, it has been shown that development can be designed to respect the site and conserve the character of its surroundings. Although the layout is indicative at this stage it will be possible for the site to be well developed to create an attractive, welcoming and safe environment. The proposed development therefore accords with Policy CP24 of the TMBCS, Policy SQ1 of the MED DPD and paragraphs 122, 127 and 130 of the NPPF.

Existing and proposed residential amenity:

6.28 It is also vital to assess the proposed development in terms of its potential impact on the residential amenity of existing dwellings located close to the site and in addition to ensure that suitable residential amenity can be achieved for future occupiers of the proposed development. This assessment will be made with regard to the relevant planning policies CP24 of the TMBCS, SQ1 of the MDE DPD and paragraphs 127 and 130 of the NPPF. These policies are detailed above in paragraphs 6.17, 6.18 and 6.19 of this report.

6.29 The indicative masterplan shows a layout demonstrating how the quantum of development proposed could be accommodated across the site. The majority of the dwellings will have no direct impact on existing dwellings. However it is important to consider the potential relationship between the proposed dwellings to be located in the north of the site and those existing dwellings on Cherry Orchard,

Brampton Field and Wilton Drive. The indicative masterplan shows a minimum distance of 21m between the opposing elevations of the existing and proposed dwellings. On this basis I consider that the proposed development would not cause any overt harm to the residential amenity of the existing dwellings to the north and north west. Whilst the proposal will alter the outlook from these residential dwellings, the separation distances and the use of landscape buffers will ensure no loss of privacy, light or general amenity. Accordingly this relationship will also ensure a suitable level of residential amenity for future occupiers of the proposed development.

- 6.30 Policy SQ6 of the MDE DPD relates to noise. However this policy has been out of date since the publication of the NPPF in 2012. Therefore, for decision making purposes it is necessary to refer to paragraph 180 of the NPPF. This paragraph requires planning decisions to mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and quality of life. A Noise Assessment has been submitted as part of the planning application. The assessment concludes that the site is 'low risk' and calculates the noise increase from the predicated traffic movements to be 2.9dB which is below the commonly acceptable minimum detectable change of 3dB. This demonstrates that the site is suitable for residential development in terms of noise.
- 6.31 Whilst EP concur with this overall conclusion, in order to ensure a suitable aural climate for the proposed dwellings fronting Kiln Barn Road, it may be necessary to consider some form of mechanical ventilation. However overall the indicative masterplan has demonstrated that 300 dwellings could be adequately accommodated within the site and include suitable on site provision of roadways, vehicle parking, a SUDs as well as amenity and play space.
- 6.32 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) or is not sited close to an existing harmful source of air pollution or impact on designated sites of nature conservation. An Air Quality Assessment has been submitted as part of the planning application. The assessment concludes that the impact of the proposed development in this regard will be negligible. I concur with this view. However mitigation measures such as the installation of electric vehicle charging points and a Travel Plan to encourage sustainable means of transport (public, cycling and walking) are recommended, and such measures can be ensured by planning condition.

Best and most versatile land:

- 6.33 Policy CP9 of the TMBCS states that development of the best and most versatile land (DEFRA Grades 1, 2 and 3a) will be not be proposed in the LDF unless there is an overriding need, and

(a) there is no suitable site in a sustainable location on land of poorer agricultural quality; or

(b) alternative sites have greater value for their landscape, biodiversity, amenity, heritage or natural resources or are subject to other constraints such as flooding.

6.34 Paragraph 170 of the NPPF requires planning policies and decisions to contribute to and enhance the natural and local environment. In particular section b) requires the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services to be recognised – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.

6.35 Whilst I appreciate that policy CP9 relates to the allocation of sites rather than decision making, this policy when considered in conjunction with paragraph 170 (b) of the NPPF makes it clear that there is a need to balance the need for additional housing with the loss of agricultural land.

6.36 The site is classified as grade 2 which is typical of the surrounding area. Grades 1, 2 and 3a are referred to as 'best and most versatile' land. It is recognised that the site comprises the best and most versatile agricultural land, although it is a small area when compared with the size of the East Malling Trust land, the primary purpose of that organisation being agricultural research. Specifically, the submitted Planning Statement advises that the land has been used for research purposes and not crop production but that due to changes in research methods there is not as much demand for land by the Trust. It is therefore my judgement that that the loss of this small area of land would not result in an unacceptable impact on agricultural yield or profitability, particularly when balanced against the lack of a five year housing land supply.

Ecology and biodiversity:

6.37 In accordance with section 40 of the Natural Environment and Rural Communities Act 2006 in decision making LPAs must have regard to conserving biodiversity. Policy NE2 of the MDE DPD requires that the biodiversity of the borough and in particular priority habitats, species and features, will be protected, conserved and enhanced. Policy NE3 states that development which would adversely affect biodiversity or the value of wildlife habitats across the borough will only be permitted if appropriate mitigation and/or compensation measures are provided which would result in overall enhancement. The policy continues to state that proposals for development must make provision for the retention of the habitat and protection of its wildlife links. Opportunities to maximise the creation of new corridors and improve permeability and ecological conservation value will be sought.

6.38 Policy NE4 further sets out that the extent of tree cover and the hedgerow network should be maintained and enhanced. Provision should be made for the creation of

new woodland and hedgerows, especially indigenous broad-leaved species, at appropriate locations to support and enhance the Green Infrastructure Network. These are all in general conformity with the policies in the Framework. In particular, paragraph 170 of the NPPF states that planning policies and decisions should contribute to, and enhance, the natural and local environment by (inter alia) protecting and enhancing sites of biodiversity value and minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

6.39 An Ecological Assessment has been submitted in support of the application. The assessment was carried out in accordance with the guidance published by the Chartered Institute of Ecology and Environmental Management (CIEEM). The assessment includes full details of how the surveys were carried out and references the appropriate methodologies. Three bat activity surveys were carried out concentrating on the existing agricultural buildings at the site. Further surveys relating to great crested newts and other amphibians, badgers, reptiles, birds, invertebrates and dormice were also carried out. The assessment did not discover any protected species at the site. The assessment identified all the surrounding designated habitat areas including Holborough to Burham Marshes SSSI (2.7km to the north), Oaken Wood LWS (1.3km to the south) and Ditton Quarry Local Nature Reserve (0.2km to the east), but concludes that the separation distances between the application site and any designated habitat areas are sufficient to ensure no adverse impact would result from the proposed development. I therefore conclude that the proposed development will not adversely affect any protected species or damage any special habitat.

6.40 Nevertheless legislation, development plan policies and the NPPF seek to enhance the biodiversity value of sites. Accordingly the Ecological Assessment recommends a series of mitigation and enhancement measures. The measures include garden fences to be provided with a 'Hedgehog Gateways', the provision of Schwegler bird boxes and sparrow terraces (Schwegler is a supplier of good quality woodcrete nesting boxes), two hibernacula (for overwintering) and two log piles. These recommendations, in conjunction with those already made in the submitted Arboricultural Report, will ensure an overall enhancement to biodiversity and wildlife habitat, particularly through the introduction of ponds associated with the SUDs and wildlife rich species planting. I am satisfied therefore that the proposed development accords with the requirements of the relevant policies in this regard.

Highway safety, capacity and parking provision:

6.41 Policy SQ8 of the MDE DPD sets out that:

1. Before proposals for development are permitted, they will need to demonstrate that any necessary transport infrastructure, the need for which arises wholly or substantially from the development is in place or is certain to be provided.

2. Development proposals will only be permitted where they would not significantly harm highway safety and where traffic generated by the development can adequately be served by the highway network.

3. Development will not be permitted which involves either the construction of a new access or the increased use of an existing access onto the primary or secondary road network (as defined by the Highway Authority) where a significantly increased risk of crashes or traffic delays would result. No new accesses onto the motorway or trunk road network will be permitted.

4. Development proposals should comply with parking standards which will be set out in a Supplementary Planning Document.

5. Where significant traffic effects on the highway network and/or the environment are identified, the development shall only be allowed with appropriate mitigation measures and these must be provided before the development is used or occupied.

6.42 This is consistent with the relevant policies of the Framework which state as follows.

6.43 Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 110 goes on to state that within this context, applications for development should:

a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;

b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;

c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;

d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and

e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

6.44 Paragraph 111 then sets out that all developments that will generate significant amounts of movement should be required to provide a travel plan, and the

application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.

- 6.45 In accordance with paragraph 111 a detailed TA, TA Addendum, traffic data and Framework Travel Plan have been submitted as part of the planning application. The numerous documents have been subject to vigorous scrutiny by the highway authority who have sought additional information and clarification throughout the life of the application.
- 6.46 The access to the site is proposed from the west side of Kiln Barn Road. The proposed access has been designed with a 52m vision splay to the north and 50m to the south (at a setback distance of 2.4m). An additional emergency access is also to be provided further south on Kiln Barn Road. The proposed emergency access is to have similar visibility splays but being emergency access will be controlled by collapsible bollards. The access will be 3.7m in width and also provide pedestrian and cycle access. Full details of the proposed accesses are shown on drawing referenced 182600 – 003 Rev E received 26.02.20. A safety audit has been completed and the highway authority has found these arrangements to be acceptable.
- 6.47 The traffic movements generated by the proposed development have been estimated using the TRICs database. (Trip Rate Information Computer System is a database of trip rates used in the UK designed specifically to quantify the trip generation of new developments). In addition, traffic counts were undertaken in July 2018 (in term time) on Kiln Barn Road close to the proposed site access, and in November 2018 at the junction of Kiln Barn Road/New Road/St Peters Road. Furthermore a wide range of capacity assessments have been completed for the junctions along the A20 including the A20/Bradbourne Lane junction.
- 6.48 The TRICs calculations and survey results confirm that the A20/Bradbourne Lane junction will work within capacity in 2031 if the proposed development were to proceed and therefore no further improvements are required in this location. However Members will be aware of the existing capacity issues along the A20. Members will also be aware that the NPPF requires the Council to consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. It 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. 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.

- 6.49 The TRICs calculations and survey results demonstrate that the traffic generated by the proposed development can be adequately mitigated through junction improvements at the A20/Station Road/New Road junction. Details of this proposed junction improvement are shown on drawing referenced 182600-017A received within the Transport Assessment Addendum on 31.01.20.
- 6.50 The improvements to the A20/Station Road/ New Road junction comprise of widening to the carriageway on both the northern and southern sides of the A20 in order to allow for two straight ahead lanes on the A20 both eastbound and westbound. This will improve capacity, reduce delays and improve journey times.
- 6.51 The improvements relate directly to the proposed development and are fair and reasonable in scale and kind. The improvements therefore meet the tests set out in the NPPF and the CIL regulations. The improvements can therefore be ensured by planning condition and legal agreement in the form of a S278 agreement between the applicant and the highway authority.
- 6.52 The TRICs calculations and survey results demonstrate that the additional traffic generated by the proposed development will also have an impact on the A20 corridor. It is therefore appropriate to seek a financial contribution towards further offsite highway improvements. The highway authority has identified a financial contribution of £910 per dwelling to be put towards bus service enhancements to improve bus journey times and to encourage sustainable travel. A further sum of £1547.62 per dwelling is sought towards other highway improvements along the A20 between the junctions of the A228 and Coldharbour roundabout. These measures have been identified by the highway authority as being necessary mitigation measures and are directly related to the proposed development and being fair and reasonable in scale and kind can be ensured by legal agreement.
- 6.53 The illustrative masterplan shows that 1.5 parking spaces (averaged) are provided for the 1 and 2 bedroom flats and 1 and 2 bedroom houses, and 2 vehicle spaces for the 3 and 4 bedroom houses. IGN3 recommends for suburban edge and village settlements a provision of 1 space per 1 and 2 bed flats, 1.5 spaces for 1 and 2 bed houses, and 2 spaces for 3 and 4 bed houses. The proposed development meets these recommendations however I also recommend that any final design also includes visitor parking. This can be addressed at reserved matters stage.
- 6.54 Paragraph 91 of the NPPF requires the aims of planning policies and decisions to achieve healthy, inclusive and safe places. In particular section c) requires policies and decisions to enable and support healthy lifestyles and (inter alia) layouts that encourage walking and cycling.
- 6.55 A new footway is to be provided along the site frontage on Kiln Barn Road with a crossing facility. The Design and Access Statement makes reference to a new network of public footpaths and cycle routes, stating that a new around-the-site

footway and the green corridors will provide opportunities for walking, running, cycling and dog walking. The illustrative masterplan confirms that the existing PROW MR100 is to be maintained. However I am aware of the concerns of KCC PROW who seek improvements in the overall design, noting that Kent Design guidance requires provision for walkers and cyclists to be made within traffic free, wide green corridors of open space, and should not be confined behind rear gardens or close to roads. In addition the PROW will also need to be at least 2m in width and suitably surfaced. The site is of sufficient size to accommodate these requirements and this can be addressed at reserved matters stage and ensured by planning condition.

- 6.56 Members will be aware of the proposed improvements to A20/Mills Road/Hall Road junction. The improvements are to be delivered by the highway authority. Funding for this scheme has been secured by the highway authority although it is important to ensure that the proposed development is not to be undertaken until these works are substantially completed. This again can be ensured by planning condition.
- 6.57 Appropriate measures have been identified which will successfully mitigate the impact of the proposed development on the highway network and these can be adequately secured by planning conditions and obligations.
- 6.58 The proposed development is capable of making suitable provision for alternative modes of transport owing to the locality of the site and PROW links. The provision of electric vehicle charging points is recommended and this can be ensured by planning condition. Consequently both I and the highway authority conclude that the proposed development will not have a severe adverse impact in either capacity or safety terms on the wider highway network. The application is therefore acceptable in this regard. It also remains appropriate however to minimise any highway disruption during construction. It will therefore be necessary to agree a Construction Management Plan and this can be ensured by planning condition.

Potential flood risk and drainage:

- 6.59 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, where this is possible and compatible with other policies aimed at achieving a sustainable pattern of development. Similarly, paragraph 155 of the NPPF sets out that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future).
- 6.60 The drainage and flood risk across the site is addressed in the submitted (revised) Flood Risk Assessment and Drainage Strategy. It sets out that the proposed development lies within Flood Zone 1, where residential development is considered to be a compatible land use. However whilst the majority of the site is at very low risk of surface water flooding there is a very small area of low risk of flooding to the west of the site and a small area, at a low point to the north of the

site, shown to be at high risk of flooding. The proposed drainage arrangements will need to minimise any risk to ensure that the site itself will not be at risk of flooding or increase flood risk elsewhere. It is appreciated that the masterplan shows an indicative layout only. However it will be vital to ensure that any final layout incorporates a robust SUDs to accommodate all surface water within the site. This can be ensured by planning condition. The strategy also confirms that foul sewerage will discharge via a new connection into the Southern Water sewer.

Ground conditions and land contamination:

6.61 Paragraph 178 of the NPPF states that planning policies and decisions should ensure that:

- a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);
- b) 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
- c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.

6.62 Paragraph 179 makes clear that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

6.63 Ground conditions are addressed in the submitted and updated Preliminary Risk Assessment for Ground Water. This assessment demonstrates that SUDS could be so designed as to not cause pollution to groundwater. Nevertheless the site forms part of the wider EMT Research facility, and as such is identified as potentially contaminated land. There is no evidence of what chemicals have been used in association with the agricultural research activities, and there is a historic landfill site on the north west site boundary. It is therefore necessary to attach planning conditions to deal with any potential land contamination issues.

Archaeological considerations:

6.64 Paragraph 189 of the NPPF requires sites that have the potential to include heritage assets with archaeological interest to submit appropriate desk-based assessments and, where necessary, field evaluations in order to assess the significance of any such assets.

6.65 The majority of the site lies in an area of archaeological potential (AAP) for prehistoric and Roman remains. The application includes an Archaeological Report which provides a reasonable summary and on this basis the application is acceptable in this regard subject to an archaeological watching brief. This can be ensured by planning condition.

The draft local plan:

6.66 Members will be aware that this site is a proposed allocation for housing development in the draft local plan by policy LP25 (o). I am aware that the draft local plan includes an indicative number of 216 dwellings.

6.67 Under paragraph 48 of the NPPF, a local planning authority can give weight to relevant policies in an emerging plan according to (1) the stage of preparation of the plan, (2) whether there are unresolved objections to the relevant policies and (3) the degree of consistency of the relevant policies with the NPPF.

6.68 Paragraph 49 then advises that this, when taken in the context of the NPPF and “in particular the presumption in favour of sustainable development - arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:

a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and

b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.”

6.69 However at present only limited weight can be given to the draft local plan until it has progressed further through the examination process and therefore the draft allocation cannot be determinative at this time.

Planning obligations:

6.70 To reiterate, Members will be aware that the NPPF requires the Council to consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Regulation 122 of the CIL Regulations requires conditions and obligations to be necessary to make the development acceptable in planning terms; be directly related to the development; and be fairly and reasonably related in scale and kind to the development.

6.71 Policy CP25 of the TMBCS relates to the mitigation of development impacts and states:

1. Development will not be proposed in the LDF or permitted unless the service, transport and community infrastructure necessary to serve it is either available, or

will be made available by the time it is needed. All development proposals must therefore either incorporate the infrastructure required as a result of the scheme, or make provision for financial contributions and/or land to secure such infrastructure or service provision at the time it is needed, by means of conditions or a planning obligation.

2. Where development that causes material harm to a natural or historic resource is exceptionally justified, appropriate mitigation measures will be required to minimise or counteract any adverse impacts. Where the implementation of appropriate mitigation is still likely to result in a residual adverse impact then compensatory measures will be required.

6.72 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.

6.73 The application comprises the on-site provision of affordable housing. Affordable housing is proposed at a level of 25%. This reflects the requirements of draft local plan policy LP39 in this part of the Borough. As already noted the draft local plan is not sufficiently advanced in the examination process to be afforded any more than limited weight. Consequently, the application includes a viability report which concludes that the appropriate level of affordable housing provision at the site is 25% rather than the 40% which is required via adopted development plan policy. This is unsurprising as the viability report was based on the same evidence as the draft local plan which states that 25% affordable housing provision is appropriate for this part of the Borough. I am aware that provision at a level of 25% does not accord with the 40% requirement set out in the current development plan policy CP17. I am also aware that the draft local plan policy carries little weight. However the evidence put forward in the submitted viability report is based on the same evidence as the draft local plan policy and is therefore more up to date than the local plan policy which dates from 2007. Therefore, there are material planning considerations that indicate the provision of 25% to be acceptable in this instance. The specific type and tenure of the proposed affordable housing, and details of its implementation will be secured by legal agreement. The affordable housing is to include the on-site provision of 3 wheelchair adaptable homes.

6.74 Policy OS3 of the MDE DPD requires all developments of 5 units or more to provide open space provision in line with Policy Annex OS3. The policy sets out that, where possible to do so, open space should be provided on-site. The indicative masterplan identifies some 1.35 hectares of formal public open space and a hectare of what is described on the masterplan as green network. In addition the intention is to provide a Neighbourhood Equipped Area of Play (NEAP) and 9 Local Areas of Play (LAP). The proposal therefore includes a large proportion of the required open space within the site. Full details of the on-site

open space will be provided at reserved matters stage. However it is not practical to make on on-site provision for parks and gardens or outdoor sports facilities. Consequently a sum of £365,883 is sought towards Leybourne Lakes Country Park and £671,268 towards the provision of enhanced outdoor sports facilities in the local area.

6.75 KCC advise that the proposed development will give rise to up to 84 additional primary school pupils, and as there are no existing local schools which can be suitably expanded this need can only be accommodated through the construction of a new primary school. Therefore a financial contribution of £4535 for each house and £1134 for each flat will be sought towards the build costs of a new primary school in Aylesford, and a financial contribution of £3208.18 for each house and £802.05 for each flat towards the costs of land acquisition.

6.76 I am aware that there is no absolute certainty regarding the delivery of a new primary school in Aylesford. I am also aware of the limited weight that can be afforded to the TMBC draft local plan. However it is entirely reasonable that KCC are planning for projects that take account of the proposed development strategies within the draft plan. There will however need to be a clear mechanism put in place within the legal agreement to ensure that the provision of primary school places arising from the proposed development are met in the event that the proposed primary school does not come forward as envisaged.

6.77 KCC advise that the proposed development will give rise to up to 60 additional secondary school pupils, and this need can be met through the enhancement of teaching space at Aylesford School. Therefore a financial contribution will be sought of £4115 for each house and £1029 for each flat.

6.78 KCC also advise that in order to mitigate the additional impact arising from the proposed development on the delivery of its community services, the payment of the following sums is sought:

- £9770.80 towards the Aylesford School Adult Education Centre for additional equipment for new learners
- £4041.06 towards Aylesford Youth Club
- £15,116.04 towards Larkfield Library enhancement and additional book stock for the new borrowers
- £16,770.00 towards the Aylesford Priory Changing Place facility

6.79 The NHS CCG advise that the proposed development will generate 702 new patient registrations and in order to mitigate this impact a sum of £252,720 will be sought towards the refurbishment, reconfiguration and/or extension at Thornhills Medical Centre, Wateringbury Surgery and/or West Malling Group Practice.

6.80 I am satisfied that the on-site provision of affordable housing, and the financial sums sought towards off site open space, education and community facilities, as well as the highway improvements detailed elsewhere in this report, are all necessary to make the development acceptable, are directly related to the development, and are fair and reasonable and related in scale and kind to the proposed development. Consequently the relevant tests have been met. The affordable housing, junction improvements and financial contributions comprise the S106 agreement.

Planning balance and overall conclusions:

6.81 The developer has identified two public benefits which they consider will result from the residential development coming forward. The benefits to the operation of the Research Campus through securing a financial receipt from the sale of the site, and the delivery of the site will help to increase the housing supply within the Borough.

6.82 The benefits to the research work of the EMT are noted however there is no suggestion that in the event the development did not come forward EMT would fail as a business. Therefore there is no legitimate “enabling” argument that can weigh as a public benefit in favour of the scheme in this regard. However the benefits associated with the provision of additional housing, including an element of affordable housing, and particularly at a time when the Borough cannot demonstrate a sufficient supply of housing, do constitute a public benefit that weighs in favour of the proposed development. This view is in accordance with view taken by the Inspector at the recent King Hill appeal (APP/H2265/W/19/3235165, 3235166, 3235167 and 3235171). The Inspector noted the following;

“The Council cannot currently demonstrate a five year supply of deliverable housing sites (5 year HLS), it being between 2.3 and 2.5 years, a reduction from previously published figures in recent years. Although the Council is attempting to address this situation, the extent to which this will affect the 5 year HLS is unclear. The proposals (for housing development as referenced above) would significantly contribute to the supply and mix of housing in the borough which, in the above context, particularly due to the extent of current under-supply, would amount to a substantial benefit.”

6.83 I am aware that the proposed development seeks to provide 25% rather than 40% affordable housing, however this still amounts to an additional benefit to the already substantial benefit of proposed housing development as a whole.

6.84 The site does not constitute a protected area or asset of particular importance as listed in Footnote 6. It has been determined that the site does not fall within the setting of the CA or Bradbourne House. Therefore, in accordance with paragraph 11 d) (i) of the NPPF there is no clear reason to refuse the proposed development.

6.85 In accordance with paragraph 11 d) (ii,) it has been demonstrated that there are no other significant or demonstrable adverse impacts arising that would outweigh the benefits of the development when assessed against the policies in the Framework when taken as a whole. Any identified impacts arising from the development can be adequately and appropriately mitigated through planning obligations and conditions. I therefore conclude that the balance in favour of sustainable development falls to be applied and accordingly I put forward the following recommendation.

7. Recommendation:

7.1 **Grant outline planning permission** in accordance with the following submitted details: Site Location Plan EMT-B-01 Rev A, Illustrative Masterplan EMT-B-02 Rev A, Parameter Plan – Masterplan Principles EMT-B-03 Rev A, Parameter Plan – Developable Area EMT-B-04 Rev A, Parameter Plan – Green Infrastructure, Open Space and Drainage EMT-B-05 Rev A, Parameter Plan – Movement and Circulation EMT-B-06 Rev A, Parameter Plan – Building Heights and Frontages EMT-B-07 Rev A, Parameter Plan – Character Areas, Block Structure and Density EMT-B-08 Rev A, Proposed Access Arrangement via Kiln Barn Road 182600-003 Rev E, Planning Statement (December 2018), Design and Access Statement (December 2018), Landscape and Visual Appraisal (10.12.2018), Flood Risk Assessment and Drainage Strategy (December 2018), Transport Assessment (December 2018), Transport Assessment Addendum (January 2020), Framework Travel Plan (December 2018), Arboricultural Report (August 2018), Ecology Assessment (December 2018), Noise Assessment (December 2018), Air Quality Assessment (December 2018), Heritage Statement (December 2018), Archaeological Desk-Based Assessment (December 2018), Utilities and Servicing Statement (December 2018), Statement of Community Involvement (December 2018), Preliminary Risk Assessment (December 2018), Financial Viability Statement (12 September 2019), Financial Viability Statement UPDATE (10 December 2019) subject to the following:

- The applicant entering into a planning obligation with the Borough Council to provide on-site affordable housing and financial contributions towards public open space provision (parks and gardens and outdoor sports facilities) and enhancement and health provision;
- The applicant entering into a planning obligation with Kent County Council to make financial contributions towards off-site highway junction improvements, public transport, the provision of education facilities, and community services

It is expected that the section 106 agreement should be agreed in principle within 3 months and the legalities completed within 6 months of the committee resolution unless there are good reasons for the delay. Should the agreement under Section 106 of the Act not be completed and signed by all relevant parties

by 20 February 2020, a report back to the Area 3 Planning Committee will be made either updating on progress and making a further recommendation or in the alternative the application may be refused under powers delegated to the Director of Planning, Housing and Environmental Health who will determine the specific reasons for refusal in consultation with the Chairman and Ward Members.

- The following conditions:

- 1 Approval of details of each phase of the development (if any) comprising the layout and appearance of the development, the landscaping of the site, and the scale of the development (hereinafter called the "reserved matters") shall be obtained from the Local Planning Authority.

Reason: No such approval has been given.

- 2 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of two years from the date of this permission.

Reason: In pursuance of Section 92(2) of the Town and Country Planning Act 1990.

- 3 The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: In pursuance of Section 92(2) of the Town and Country Planning Act 1990.

- 4 Applications for the approval of the reserved matters shall be in conformity with the Parameter Plans referenced Masterplan Principles Plan Ref: EMT – B – 03 Rev A, Developable Area Plan Ref: EMT – B – 04 Rev A, Green Infrastructure Open Space and Drainage Plan Ref: EMT – B – 05 Rev A, Movement and Circulation Plan Ref: EMT – B – 06 Rev A, Building Heights and Frontages Plan Ref: EMT – B – 07 Rev A, Character Areas Block Structure and Density Plan Ref: EMT – B – 08 Rev A received 13 December 2019 and details of the proposed access and emergency access (the Proposed Access Arrangement via Kiln Barn Road Plan) referenced 182600 – 003 Rev E received 26.02.20.

Reason: To ensure that the layout of the proposed development will not result in any unacceptable impact on the nearby heritage assets or the wider highway network.

- 5 Prior to or as part of the first submission pursuant to condition 1, a scheme detailing the phasing of the construction of the development including the means of access, layout of buildings, car parking and servicing arrangements, shall be

submitted to and approved in writing by the Local Planning Authority. The development will be carried out in accordance with the details approved.

Reason: In the interests of highway safety and the amenity of the locality.

- 6 The details submitted in pursuance to Condition 1 shall be accompanied by a contoured site plan and full details of the slab levels at which the dwellings are to be constructed and the development shall be carried out in accordance with the approved details.

Reason: To enable the Local Planning Authority to assess adequately the impact of the development on visual relationship with the nearby heritage assets.

- 7 The details submitted in pursuance of Condition 1 shall be accompanied by a scheme of landscaping and boundary treatment. The scheme shall be in conformity with the Green Infrastructure Open Space and Drainage EMT – B – 05 Rev A received 13 December 2019 and follow the recommendations set out in the Arboricultural Report received 13 December 2019. The scheme shall be approved in writing by the Authority Planning Authority and shall be implemented by the approved date. Any trees or plants which within 10 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of visual amenity

- 8 The details submitted in pursuance of Condition 1 shall show adequate land to be reserved for the parking and turning of vehicles, including visitor parking. The dwellings hereby permitted shall not be occupied until these areas have been provided, surfaced and drained in accordance with the approved details. Thereafter no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown (other than the erection of a private garage or garages) or in such a position as to preclude vehicular access to reserved vehicle parking areas.

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

- 9 The details submitted pursuant to condition 1 shall show details of electric vehicle charging points. The charging points shall be approved by the Local Planning Authority and be installed prior to the first occupation of any dwelling, and thereafter maintained and retained in accordance with the approved details.

Reason: To encourage the use of electric vehicles in the interests of mitigating climate change in accordance with national objectives.

- 10 The details submitted in pursuance of Condition 1 shall show the proposed pedestrian and cycle routes within the site, including all works to the existing

PROW, and demonstrate how the routes will link to the existing public rights of way, particularly links to the south with East Malling and the north with Ditton. The dwellings hereby permitted shall not be occupied until these routes have been provided, surfaced and drained in accordance with the approved details and shall be retained at all times thereafter.

Reason: To promote healthy lifestyles and social connectivity.

- 11 The details submitted in pursuance of Condition 1 shall show arrangements for the storage and screening of refuse and recycling. Prior to the occupation of each unit the approved arrangements shall be implemented in relation to that particular unit, and shall be retained at all times thereafter.

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

- 12 The details submitted in pursuance of Condition 1 shall incorporate the mitigation and enhancement measures detailed in the Ecological Assessment received 13 December 2019. The measures shall be implemented in accordance with an agreed timetable and retained thereafter.

Reason: In the interests of nature conservation and biodiversity.

- 13 The details submitted in pursuance of Condition 1 shall incorporate the mitigation measures detailed in the Air Quality Assessment and Framework Travel Plan received 13 December 2018. The measures shall be implemented in accordance with a timetable agreed with the Local Planning Authority and retained at all times thereafter.

Reason: To ensure suitable levels of air quality

- 14 The details submitted in pursuance of Condition 1 shall show the proposed areas of amenity, natural and formal open space, a centrally located Neighbourhood Equipped Area of Play and nine Local Areas of Play. The open space and play areas shall be implemented in accordance with a timetable agreed with the Local Planning Authority and retained at all times thereafter.

Reason: To ensure suitable levels of open space in the interests of health and wellbeing.

- 15 Prior to any above ground works, except ground investigations or site survey works, arrangements for the management of all construction works shall be submitted to and approved by the Local Planning Authority. The management arrangements to be submitted shall include (but not necessarily be limited to) the following:

- The days of the week and hours of the day when the construction works will be limited to and measured to ensure these are adhered to;

- Procedures for managing all traffic movements associated with the construction works including (but not limited to) the delivery of building materials to the site (including the times of the day when those deliveries will be permitted to take place and how/where materials will be offloaded into the site) and for the management of all other construction related traffic and measures to ensure these are adhered to;
- Procedures for notifying neighbouring properties as to the ongoing timetabling of works, the nature of the works and likely their duration, with particular reference to any such works which may give rise to noise and disturbance and any other regular liaison or information dissemination; and
- The specific arrangements for the parking of contractor's vehicles within or around the site during construction and any external storage of materials or plant throughout the construction phase.

The development shall be undertaken in full compliance with the approved details.

Reason: In the interests of residential amenity and highway safety.

- 15 Prior to any above ground works, except ground investigations or site survey works, the applicant, or their agents or successors in title, has secured the implementation of
- i archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
 - ii following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority

Reason: To ensure that features of archaeological interest are properly examined and recorded and that due regard is had to the preservation in situ of important archaeological remains.

- 16 Prior to any above ground works, except ground investigations or site survey works, details and samples of all materials to be used externally shall be submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not harm the character of the countryside.

- 17 Prior to any above ground works, except ground investigations or site survey works a detailed sustainable surface water drainage scheme for the site shall be submitted to, and approved in writing by, the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

The drainage scheme shall also demonstrate (with reference to published guidance):

- that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters, particularly as the site lies within a Groundwater Protection Zone 3.
- appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details.

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.

- 18 The dwellings shall not be occupied until a Verification Report pertaining to the surface water drainage system, prepared by a suitably competent person, has been submitted to, and approved in writing, by the Local Planning Authority. The Report shall demonstrate the suitable modelled operation of the drainage system where the system constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development is appropriately maintained.

- 18 No above ground works, except ground investigations or site survey works shall commence until the following have been submitted to and approved by the Local Planning Authority:

a) a contaminated land desktop study identifying all previous site uses, potential contaminants associated with those uses including a survey of the condition of any existing building(s), a conceptual model of the site indicating sources, pathways and receptors and any potentially unacceptable risks arising from contamination at the site;

(b) based on the findings of the desktop study, proposals for a site investigation scheme that will provide information for an assessment of the risk to all receptors that may be affected including those off site. The site investigation scheme should also include details of any site clearance, ground investigations or site survey work that may be required to allow for intrusive investigations to be undertaken.

If, in seeking to comply with the terms of this condition, reliance is made on studies or assessments prepared as part of the substantive application for planning permission, these documents should be clearly identified and cross-referenced in the submission of the details pursuant to this condition.

Reason: In the interests of amenity, public safety and human health.

- 19 No development shall take place other than as required as part of any relevant approved site 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 site 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 site 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 the development 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.

- 20 Following completion of the approved remediation strategy, and prior to the first occupation of the development, a relevant verification report that scientifically and technically demonstrates the effectiveness and completion of the remediation scheme at above and below ground level shall be submitted for the information of the Local Planning Authority.

The report shall be undertaken in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. Where it is identified that further remediation works are necessary, details and a timetable of those works shall be submitted to the Local Planning Authority for written approval and shall be fully implemented as approved.

Thereafter, no works shall take place such as to prejudice the effectiveness of the approved scheme of remediation.

Reason: In the interests of amenity, public safety and human health.

- 21 None of the dwellings hereby approved shall be occupied until the access from Kiln Barn Road, the emergency access, new footway and crossing facility, as shown in principle on drawing referenced 182600 – 003 Rev E received 26.02.20, have been substantially completed.

Reason: The undertaking of the works without the proposed highways improvements is likely to result in unacceptable traffic conditions in the surrounding area.

- 22 The measures for implementation and monitoring arrangements as set out in the Framework Travel Plan prepared by Ardent, project reference 182600-11 dated December 2018 hereby approved shall be fully adhered to.

Reason: In the interests of the proper management of traffic and highway safety and in order to encourage more sustainable modes of transport to/from the site.

- 23 Prior to the commencement of the development hereby approved, arrangements for the management of all construction works shall be submitted to and approved by the Local Planning Authority. The management arrangements to be submitted shall include (but not necessarily be limited to) the following:

- The days of the week and hours of the day when the demolition and construction works will be limited to and measures to ensure these are adhered to;
- Procedures for managing all traffic movements associated with the construction works including (but not limited to) the delivery of building materials to the site (including the times of the day when those deliveries will be permitted to take place and how/where materials will be offloaded into the

site) and for the management of all other construction related traffic and measures to ensure these are adhered to; and

- The specific arrangements for the parking of contractor's vehicles within the site during construction and any external storage of materials or plant throughout the construction phase.

The development shall be undertaken in full compliance with the approved details.

Reason: In the interests of residential amenity and highway safety in accordance with Policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007.

Informatives

- 1 It is recommended that all developers work with a telecommunication partner or subcontractor in the early stages of planning for any new development to make sure that Next Generation Access Broadband is a fundamental part of the project. Access to superfast broadband should be thought of as an essential utility for all new homes and businesses and given the same importance as water or power in any development design. Please liaise with a telecom provider to decide the appropriate solution for this development and the availability of the nearest connection point to high speed broadband. We understand that major telecommunication providers are now offering Next Generation Access Broadband connections free of charge to the developer. For advice on how to proceed with providing access to superfast broadband please contact broadband@kent.gov.uk
- 2 The proposed development is within a road which has a formal street numbering scheme and it will be necessary for the Council to allocate postal address(es) to the new property/ies. To discuss the arrangements, you are invited to write to Street Naming & Numbering, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or to e-mail to addresses@tmbc.gov.uk. To avoid difficulties for first occupiers, you are advised to do this as soon as possible and, in any event, not less than one month before the new properties are ready for occupation.
- 3 It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at

<https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

Contact: Maria Brown

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Tonbridge & Malling Borough Council
 Development Control
 Gibson Building
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 West Malling, Kent
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Highways and Transportation

Ashford Highway Depot
 4 Javelin Way
 Ashford
 TN24 8AD

Tel: 03000 418181

Date: 21 January 2019

Application - TM/18/02966/OA

Location - Development Site South Of Brampton Field Between Bradbourne Lane And Kiln Barn Road, Ditton, Aylesford, Kent

Proposal - Outline Application: Development of the site to provide up to 300 dwellings (Use Class C3) and provision of new access off Kiln Barn Road. All other matters reserved for future consideration.

Dear Maria

Thank you for consulting me on this planning application. The applicant has provided a Transport Assessment Ref. 182600-06 dated December 2018 which considers the development of 300 homes on land off Kiln Barn Road at Ditton also known as Site B. The report also considers a development of 110 homes located off New road, East Malling and referred to as Parkside Site C. The TA considers the impact of both developments in isolation and in combination. My comments are as follows:

Access

Access to the site is proposed by means of a priority junction onto Kiln Barn Road. Visibility splays from the site access are acceptable.

The internal layout is designed with long straight distributor roads and this is likely to lead to problems of speeding. It is recommended that the layout is amended to a design which includes horizontal deflection which physically reduces traffic speeds to 20mph. Swept paths diagrams are also required.

Crossing facilities for pedestrians are shown to the north of the site access, however forward visibility for pedestrians crossing Kiln Barn road, appears to be restricted due to the bend in the carriageway.

The applicant proposes the extension of the 30mph speed limit and this should be pursued subject to agreement with our Schemes Team and Kent Police. A Traffic Regulation Order would be required.

A development of this scale requires an emergency access in accordance with Kent Design and this can be provided onto Kiln Barn Lane or Brampton Fields . The use of the tracks to the south

west of the site as an alternative emergency access would be subject to approval from emergency services.

The crash records for the study area have been interrogated and no mitigation measures are required.

A safety audit is required for all proposed work within the highway.

Parking is to be provided in accordance with IGN2 for suburban edge/village/rural and this is acceptable.

Accessibility

A footway is required along Kiln Barn Lane to the south linking the development with the public right of way at Cyril West Lane and to the development at Franklin Kidd Lane as it is likely that pedestrian movements will take place between the two residential areas. Additionally, a link for pedestrians/cyclists is required to Brampton Fields to the north. This could also be considered for emergency access.

A cycle route along Kiln Barn Road to the north is not possible but there may be potential for routes along the PROWs and these could also provide a more direct route to the train station. Improvements are likely to be required and our Public Rights of Way team will be able to advise.

The distance to the nearest bus stop does seem excessive for a development of this size.

A Travel Plan is required together with a monitoring fee of £5000.

Impact

Traffic generation has been estimated using TRICs which is acceptable.

The modal split has been calculated using census data and this is acceptable but please clarify area 014.

A future year assessment for 2031 is acceptable.

Site C is included in the Tonbridge and Malling Middle Super Output Area 004 not 014 as stated in the TA. Please check whether this affects the growth factors used.

With regard to paragraph 5.9 it is possible to run the Visum model with the development flows from this proposal but not possible within the timescale required.

The Visum model is currently being updated to reflect the revised Local Plan development strategy and the Forecast Junction Capacity Assessments will be amended accordingly. It is recommended that information from this work is used to assess the impact of this development proposal. The Visum work will be available in the next week or so and I can let you know when it is available.

I would recommend that the junctions within the study area are reassessed including the information from the revised Visum modelling.

Traffic Distribution and Assignment has been calculated using Census 2011 Google Maps for routing.

The resultant distribution diagram Figs. 1 and 2 indicate that for Site B 14.6% of traffic is likely to travel south on Kiln Barn Road and 85.4% north. It is estimated that of this 85.4%, 44.9% to travel along New Road to the A20 and 32.8% along Bradbourne Lane. I consider that the constraints along Bradbourne Lane will result in a reduced distribution along that route and an increased distribution along New Road. The results of the turning count at the New Road/St Peters Road junction could be used to inform the distribution.

The increase in traffic arising from the development as shown on Fig.5 is estimated to be:

Ditton Site B	AM Peak (2 way flows)	PM Peak (2 way flows)
Kiln Barn Road south	32	26
Kiln Barn Road north	141	53
Bradbourne Lane	71	58
New Road, Ditton	110	84

Site C distribution is shown on Figs 3 and 4 which indicated that 22.6% of traffic from the development is likely to travel to and from the south on New Road and 77.4% to the north.

The increase in traffic arising from the development as shown on Fig.6 is estimated to be:

East Malling Site C	AM Peak (2 way flows)	PM Peak (2 way flows)
New Road north	62	51
New road south	14	18

Off- site impact

As mentioned previously a Visum model has been developed for the A20 corridor and junction capacity assessments have been prepared for the Local Plan evidence using 2031 future year. The Do Minimum scenario includes future growth but no Local Plan development and the Do Something includes the Local Plan development housing and employment allocations and new infrastructure. The Visum model is currently being updated to reflect the revised Local Plan development strategy and the Forecast Junction Capacity Assessments will be amended accordingly. It is recommended that information from this work is used to assess the impact of this development proposal. The Visum work will be available in the next week or so and I can let you know when it is available.

Kiln Barn Road south of the site is particularly narrow with poor forward visibility and not suited to an increase in traffic as is Bradbourne Lane.

A20/Hall Road/Mill Road

The junction is already over capacity and the increase in traffic arising from this development will add to the congestion queues and delays. Improvement proposals are being prepared but are not sufficiently advanced to give any certainty of delivery at the present time.

A20/Station Road/New Road, Ditton

The junction is already over capacity and the increase in traffic arising from this development will add to the congestion queues and delays. Drawing number 182600-007 shows potential improvements to mitigate the impact however a capacity assessment is not provided and this is required to assess the impact of the scheme. Additionally, a safety audit of the scheme is required.

I would recommend that the junctions within the study area are reassessed including the information from the revised Visum modelling.

A20/Bradbourne Lane

The junction is over capacity in the Do Minimum scenario and the increase in traffic arising from this development will add to the congestion queues and delays.

The capacity assessment for the Do Something scenario shows improved results, however this is reliant on the opening of the Bellingham Way Link which is subject to a potential future planning application at the Aylesford Newsprint site. As the timescale for the delivery of this link is not known, it will be necessary for mitigating measures to be provided by this development to address the capacity issues at this junction.

A20/New Hythe Lane

Again, this junction is over capacity in the Do Minimum scenario and the increase in traffic arising from this development will add to the congestion queues and delays.

The developments (Site B and Site C) are expected to generate an additional 114 movements during the AM peak and 92 in the PM peak. This is considered a significant impact.

Improvements proposals are being prepared but are not sufficiently advanced to give any certainty of delivery at the present time.

A20/New Road/Hotel

Drawing number 182600-005 has been provided to show a potential scheme to mitigate the impact of the development. A safety audit is required to assess the effects of the scheme.

A20/Lunsford Lane/Winterfield Lane

Drawing number 182600-006 has been provided to show a potential scheme to mitigate the impact of the development. A safety audit is required to assess the effects of the scheme.

A20/Ashton Way/Oxley Shaw Lane/Castle Way

The developments are expected to generate an additional 117 movements during the AM peak and 95 in the PM peak. The results of the capacity assessment indicate that there is a detrimental impact. An assessment of the situation using the flows from the revised Visum model would be useful.

Kiln Barn Road/Site Access

The results of the capacity assessment indicates that the proposed junction has sufficient capacity for each scenario modelled.

Table 6.7 provides an account of the traffic flows along the local roads. This appears to be incorrect as it doesn't correspond with Fig. 10 which shows the background traffic flows. For instance, Fig 10 indicates the 2031 flows of 216 on Bradbourne Lane in the AM peak and 84 in

the PM peak but Table 6.7 states the flow is 358 and 309 respectively. Similar significant discrepancies occur for Kiln Barn Road with Fig. 10 showing flows of 107 in the AM peak and 277 in the PM peak compared to flows of 461 and 536 respectively at Table 6.7.

Para. 5.11 states that the turning movements at the A20/Bradbourne Lane junction has been assumed to be 30% of that of the A20/Station Road/New Road junction. A separate traffic turning count is required in order to accurately assess the impact at this junction.

Para 2.18 indicates that a peak hour turning count was undertaken at the New Road/St. Peters Road junction so these flows could be used to inform the distribution diagrams.

Conclusion

There are some areas where additional information is required as identified above.

The traffic generated by the development is at a level that would significantly add to existing capacity issues resulting in further delays and queuing on the existing highway network. Although some highway improvements are proposed these do not adequately mitigate the effects of the development.

Until these issues have been adequately addressed I am not able to find the application acceptable.

If you require any clarification on any of the above please let me know.

Kind Regards

Louise Rowlands

Principal Transport & Development Planner



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Highways and Transportation

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Tel: 03000 418181
Date: 16 May 2019

Application - TM/18/02966/OA

Location - Development Site South Of Brampton Field Between Bradbourne Lane And Kiln Barn Road, Ditton, Aylesford, Kent

Proposal - Outline Application: Development of the site to provide up to 300 dwellings (Use Class C3) and provision of new access off Kiln Barn Road. All other matters reserved for future consideration.

Dear Maria

Thank you for re-consulting me on this planning application. Further to my previous consultation response, I have recently received a Technical Note from Ardent Consultant Engineers dated May 2019 and I have the following comments to make;

Access

Drawing number 182600-003D indicates the proposed site access, the location of the emergency access onto Kiln Barn Road and the pedestrian crossing facilities; these details are subject to a satisfactory safety audit. A safety audit has been requested and this has yet to be received. Drawing Number 182600-14 shows the swept path which is acceptable.

As stated previously, the illustrative masterplan includes a layout with long straight distributor roads which are likely to lead to speeding issues. It has been recommended that the layout is amended to a design with road alignments which physically reduce speeds to 20mph whilst allowing access for buses if required. The applicant has confirmed that this will be included at the reserved matters stage.

Accessibility

It is important that the development site links well with existing residential communities and facilities. There are existing public rights of way linking the site with the A20 to the north and to East Malling to the south west. Upgrades are required where possible to improve use for pedestrians and to allow use by cyclists. A scheme is required showing the proposed improvements.

Impact

The additional development generated traffic movements are shown below with a comparison with the 2018 recorded traffic flows:

Ditton Edge Site B	AM Peak (2 way flows)	2018 flows	PM Peak (2 way flows)	2018 flows
Kiln Barn Road south	32	92	24	238
Kiln Barn Road north	186	280	151	393
Bradbourne Lane	17	341	14	271
New Road, Ditton	169	435	137	476

The above is included in the Technical report at para. 2.22 Table 1 and is based on survey data which is included in Appendix E of the December 2018 Transport Assessment.

KCC's Visum model of the A20 area has recently been updated to reflect the current draft Local Plan development strategy and forecast junction capacity assessments have been completed for the key junctions along the A20 between the A228 and Coldharbour roundabout. The current application sites are included as allocations in the draft Local Plan; however, the quantum of development is different as outlined in the table below:

	Draft Local Plan Allocation	Current Planning Application
Ditton Edge (site B)	216	300
Parkside E. Malling (site C)	205	106

Whilst the total development numbers are broadly similar the distribution of traffic will be altered, and the impact may be changed. A first principles approach was agreed to assess the impact of the current planning applications using the latest Visum traffic flows which are available in the Visum Junction Assessments report.

The results for the junction of A20/New Road, East Malling are shown in Table 2, and the results for A20/Station Road/New Road, Ditton are shown in Table 3 of Ardent's Technical Note. Both the 2031 'do minimum' results differ from those in the Visum Junction Assessments report. This is concerning as the junction designs and Linsig files were provided in order that the background data could be matched.

Assessments have been completed for the following scenarios for both site B and for site C separately and cumulatively:

2031 'do minimum' scenario – no improvements and no Local Plan development

2031 'do something with KCC proposed improvements

2031 'do something' with Ardent proposed improvements

The Forecast Junction Assessments prepared for the T&M Local Plan have shown significant improvements to the capacity of the A20 junctions through highway improvements designed by KCC Highways and also by the opening of the Bellingham Way link road which is a requirement of the Aylesford Newsprint site redevelopment.

The capacity assessment scenarios modelled in the Technical Note include for scaled down improvements put forward by Ardent to mitigate the impact of the current planning applications. However, it seems that the traffic flows used in the modelling include the reduced level of traffic on the A20 due to the opening of the Bellingham Way link. Without the link road, the traffic

along the A20 will be higher and therefore the results of the capacity assessment will be different.

In order to assess the impact of the developments, including the draft Local Plan development strategy, the junctions should be modelled and assessed to ensure that the amended levels of development on the two sites do not result in an adverse impact on the highway network. This assessment should compare the 2031 Do Something Reg 19 scenario with the same scenario but with the amended levels of housing.

Additionally, although the draft Local Plan has been submitted to the Planning Inspectorate and is therefore a material consideration, it is a draft and therefore there is no guarantee that the development strategy will be approved. The development strategy includes for junction improvements and new link roads so additional assessments are required to inform of the impact of the planning applications without the Local Plan development strategy. This assessment should compare the 2031 Do Minimum, as set out in the Visum Junctions Assessment report, with the same scenario but including the development traffic and the mitigation proposed by the applicant.

There are several junctions along the A20 corridor which have been identified as having capacity problems and the traffic generated from the application sites will impact on these junctions. Highway improvements schemes are being progressed by KCC which, if delivered, would improve journey times and capacity through the A20 corridor. The delivery of the junction improvements is required to accommodate the traffic generated by the development and reasonable and proportionate contributions are sought, however the deliverability of these schemes is not assured as there are funding and/or land issues which are not resolved. KCC Highways are working to resolve these issues and bring forward the highway improvement schemes.

However, until these issues are resolved, and the additional information and clarification outlined above is provided, I would wish to make a holding objection to this application.

Further consideration will be given when further information is available to satisfy the concerns raised.

Yours sincerely

Louise Rowlands
Principal Transport & Development Planner



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Tel: 03000 418181
Date: 4 December 2019

Application - TM/18/02966/OA

Location - Development Site South Of Brampton Field Between Bradbourne Lane And Kiln Barn Road, Ditton, Aylesford, Kent

Proposal - Outline Application: Development of the site to provide up to 300 dwellings (Use Class C3) and provision of new access off Kiln Barn Road. All other matters reserved for future consideration.

Dear Maria

I refer to my previous consultation responses relating to this application dated 16th May 2019 and 21st January 2019.

A significant amount of technical information has been submitted in respect of this application site and the latest was provided in an email dated 15th July 2019 which seeks to address the outstanding highway concerns.

Access

Drawing number 182600-003E indicates the proposed site access, the location of the emergency access onto Kiln Barn Road and the pedestrian crossing facilities; these details have been subject to a stage 1 safety audit and found to be acceptable.

Accessibility

It is important that the development site links well with existing residential communities and facilities. There are existing public rights of way linking the site with Ditton to the north and east and to East Malling to the south west. Upgrades are required to improve use for pedestrians and to allow use by cyclists. As a minimum this should include the upgrade of PRoW MR100 and MR102 between the site towards East Malling rail station to provide a convenient cycle route (albeit not continuous) and a link to Brampton Fields. Additionally, a new footway is to be provided along the site frontage with a crossing facility to connect with the existing footway on Kiln Barn Road.

Traffic Generation

The additional development generated traffic movements are shown below with a comparison with the 2018 recorded traffic flows:

Ditton Edge Site B	AM Peak dev flows	2018 flows	PM dev flows	2018 flows
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Kiln Barn Road south	32	92	24	238
Kiln Barn Road north	186	280 269	151	393 330
Bradbourne Lane	17	341 345	14	271 438
New Road, Ditton	169	435 442	137	476 478

The 2018 flows are taken from the July 2018 ATC survey and since then a junction turning count survey was completed in November 2018 at the junction of Kiln Barn Road/New Road and St Peters Road. The flows from the turning count survey differ quite significantly as shown in red above.

Additionally, Fig 14 of the Technical Note, which shows the 2018 observed traffic flows, doesn't tally with the November 2018 survey. Please could this be checked.

Traffic Distribution

With regard to the distribution of traffic from the site to New Road and St Peters Road, I previously requested that an analysis of the junction survey be made in order to compare the distribution of traffic at the junction with that in the previous distribution assessment contained in the TA. I have checked against the survey and my findings indicate some differences to the proportions shown in Plate 3 of your Technical Note. The proportion for the PM peak arrivals would be significantly different with 51% arriving from New Road and 49 % from St Peters Road. The difference in the results would mean a larger percentage of development traffic using Bradbourne Lane to access the A20. Please could this also be revisited. Also please clarify the source of the junction turning movements used in the assessment of the A20/Bradbourne Lane. I am concerned that the additional traffic may have a detrimental impact on St Peters Road, Bradbourne Lane and the A20/Bradbourne Lane junction.

Impact

Additional capacity assessments were requested as the current application sites are included as allocations in the draft Local Plan, however, the quantum of development is different as outlined in the table below:

	Draft Local Plan Allocation	Current Planning Application
Ditton Edge (site B)	216	300
Parkside E. Malling (site C)	205	106

Key junctions have been modelled and assessed to ensure that the amended levels of development on the two sites do not result in an adverse impact on the highway network. Additionally, although the draft Local Plan has been submitted to the Planning Inspectorate, it is a draft and therefore there is no guarantee that the development strategy will be approved. The development strategy includes for junction improvements and new link roads so additional assessments were requested to inform of the impact of the planning applications without the Local Plan development strategy.

A wide range of capacity assessments have been completed for the A20 junctions and these include assessments for both the Ditton Edge site (site B) and for Parkside East Malling (site C) separately and cumulatively. The results indicate that the junction improvements proposed at the A20/New Road and A20/Station Road/New Road will fully mitigate the impact of the proposed development of these sites.

The A20/New Road improvement proposal is to be delivered by the developer of the Parkside site (application TM/18/03008).

For the junction of A20/New Road/Station Road the current Ditton Edge applicant is willing to provide a junction improvements scheme as shown on drawing number 182600-017 Rev A. The drawing has been copied from the KCC scheme design and is therefore acceptable in principle although some changes are required to remove the cycleway shown through the junction.

Additionally, the applicant has agreed to provide financial contributions through a S106 Agreement towards further off-site highway improvements and bus service/journey time enhancements along the A20 corridor as listed below and this is considered acceptable:

£910 per dwelling towards bus services enhancements/ bus infrastructure and / or bus journey time improvements in order to encourage sustainable travel.

S106 contribution of £1547.62 per dwelling towards highway improvements along the A20 between the junctions of the A228 and Coldharbour roundabout.

Conclusion

Please could further consideration be given to the points raised above concerning St Peters Road, Bradbourne Lane and the A20/Bradbourne Lane junction. Further consideration will be given when further information is available to satisfy the concerns raised.

Yours sincerely

Louise Rowlands
Principal Transport & Development Planner



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Tel: 03000 418181
Date: 13 February 2020

Application - TM/18/02966/OA

Location - Development Site South Of Brampton Field Between Bradbourne Lane And Kiln Barn Road, Ditton, Aylesford, Kent

Proposal - Outline Application: Development of the site to provide up to 300 dwellings (Use Class C3) and provision of new access off Kiln Barn Road. All other matters reserved for future consideration.

Dear Maria

I refer to my previous consultation responses relating to this application dated 21st January 2019, 16th May 2019, and 4th December 2019.

My latest response of December 2019 requested additional information be provided regarding traffic flow information, traffic distribution and impact at the A20/Bradbourne Lane junction. The applicant has responded to this and their consultants Ardent have submitted a Transport Assessment Addendum aiming to address the outstanding highway concerns.

Access

Access to the site is proposed from Kiln Barn road with an additional emergency access provided. This is shown on Drawing Number 182600-003E; a safety audit has been completed and the arrangement is found to be acceptable.

Accessibility

A new footway is to be provided along the site frontage with a crossing facility to connect with the existing footway on Kiln Barn Road. There are existing public rights of way linking the site with the A20 to the north and to East Malling to the south west. Upgrades are required where possible to improve use for pedestrians and to allow use by cyclists. KCC Public Rights of Way team have provided comments dated February 2019 which require improvements as follows:

In line with Kent Design guidance, provision for walkers and cyclists should be provided within traffic free, wide green corridors of open space, and should not be confined behind rear gardens or close to roads.

Unfortunately, the treatment of public footpath MR100 has not been well considered and the proposed main access road will run adjacent to the PROW. We ask that the applicant considers an alternative layout to accommodate the PROW within a wide green corridor of open space, away from the main access road, providing new residents opportunities for recreation, active travel and exercise. At the very least we ask that the applicant considers a wider buffer between the road and the PROW.

We would expect the PROW to be surfaced to a minimum width of 2m to help mitigate the impact of the development and increased use of the route.

We ask that the specification of such surfacing is approved by the PROW and Access Service prior to works taking place.'

The applicant has indicated that these matters will be addressed at the reserved matters stage.

Traffic Generation

The development generated traffic movements have been estimated using the TRICs database and are shown below:

Ditton Edge Site B	AM Peak dev flows	PM dev flows
Kiln Barn Road south	32	24
Kiln Barn Road north	186	151
Bradbourne Lane	17	14
New Road, Ditton	169	137

Traffic Surveys and Distribution

Concerns raised regarding discrepancies in traffic flows taken from traffic counts have been explained. Automatic traffic counts were taken in July 2018 (in term time) on Kiln Barn Road close to the proposed site access and a junction turning count at Kiln Barn Road/New Road/St Peters Road in November 2018. An explanation of the traffic distribution methodology has also been provided at para 3.3.2 following the previous concerns raised and this is acceptable.

Impact

As stated in my previous response a wide range of capacity assessments have been completed for the junctions along the A20 and these include assessments for both the Ditton Edge site (site B) and for Parkside East Malling (site C) separately and cumulatively. Assessments have been completed both with and without the emerging Local Plan development strategy in place. The results indicate that the junction improvements proposed by the developer of this site at the A20/Station Road/New Road junction, as shown on drawing number 182600-017A, will fully mitigate the impact of the proposed developments. This junction improvement scheme would be delivered by the developer in accordance with a S278 Agreement.

The applicant has also agreed to provide contributions towards further offsite highway improvements and bus services/bus journey time improvements for the A20 corridor to further mitigate their impact.

Additional assessments were requested to check the impact at the A20/Bradbourne Lane junction. New traffic surveys were completed, and growth factors applied to the surveyed flows

to provide 2031 traffic flows. The junction has been modelled for the future scenarios (2031) both with and without development traffic. Again, scenarios for both with and without the Local Plan development strategy were assessed.

The results of the capacity assessment for the A20/Bradbourne Lane junction indicate that the junction will work within capacity in 2031 in all scenarios modelled.

Conclusion

Additional information and progress have been made which address the concerns previously raised and I am sufficiently confident that adequate mitigating measures and contributions towards planned improvements can be provided to make this development acceptable in terms of highway impact. I therefore confirm that I do not wish to raise objection subject to the following conditions:

1. No development shall commence until the planned improvements, being delivered by KCC Highways to the junction of A20/Mills Road/ Hall Road, are substantially completed.
2. No occupation of development until the improvement to the junction of A20/ Station Road/New Road are completed. These works to be provided by the developer as shown in principle on Drawing number 182600-017A in accordance with a S278 Agreement. All details to be agreed with KCC Highways.
3. Access to the site onto Kiln Barn Road to be provided as indicated on Drawing number 182600-003E and to include the emergency access, a new footway and a crossing facility to connect with the existing footway on Kiln Barn Road. Improvements to PRow to be provided as required by PRow team.
4. A financial contribution of £910 per dwelling is required towards bus service enhancements/ bus infrastructure and or bus journey time improvements in order to encourage sustainable travel.
5. A financial contribution of £1547.62 per dwelling towards highway improvements along the A20 between the junctions of the A228 and Coldharbour roundabout.
6. Submission of a Construction Management Plan before the commencement of any development on site to include the following:
 - (a) Routing of construction and delivery vehicles to / from site
 - (b) Parking and turning areas for construction and delivery vehicles and site personnel
 - (c) Timing of deliveries
 - (d) Provision of wheel washing facilities
 - (e) Temporary traffic management / signage
7. The proposed roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture to be laid out and constructed in accordance with details to be submitted to and approved by the Local Planning Authority.

INFORMATIVE: It is the responsibility of the applicant to ensure , before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at

<https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

Yours sincerely

Louise Rowlands
Principal Transport & Development Planner

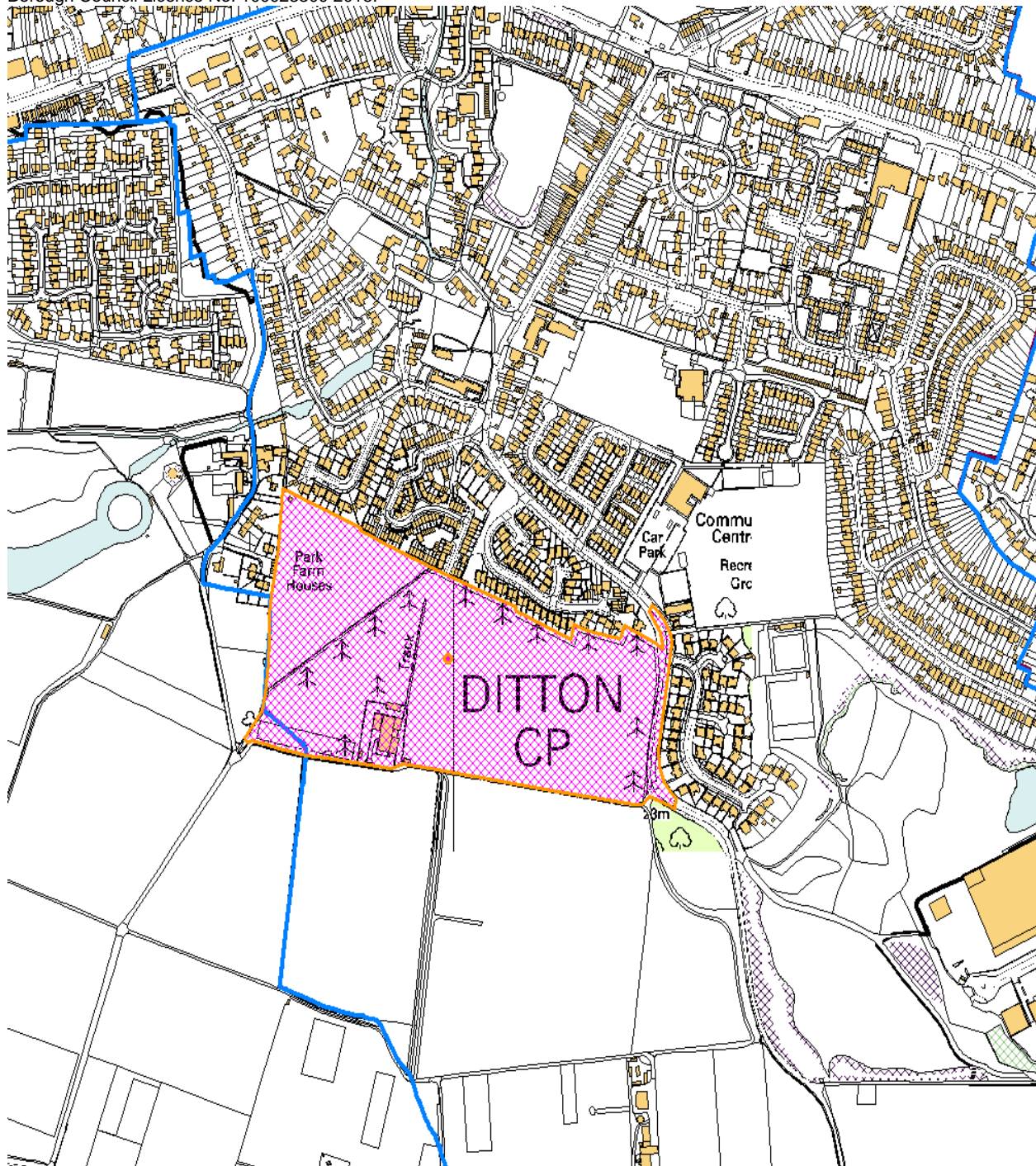
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TM/18/02966/OA

Development Site South Of Brampton Field Between Bradbourne Lane And Kiln Barn Road Ditton Aylesford Kent

Outline Application: Development of the site to provide up to 300 dwellings (Use Class C3) and provision of new access off Kiln Barn Road. All other matters reserved for future consideration

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Ditton
Ditton

3 December 2019

TM/19/02841/FL

Proposal: Demolition of existing buildings and erection of Class A1 foodstore with associated parking, landscaping and access works

Location: 675 London Road Ditton Aylesford Kent ME20 6DF

Go to: [Recommendation](#)

1. Description:

- 1.1 This is an application for planning permission for the demolition of existing buildings and the erection of Class A1 retail store with associated parking, landscaping and access works. The floor space of the retail development would be 1,674sqm, with a sales area of 1,069sqm. A further important aspect of the proposal is for a new pedestrian crossing to be provided on London Road, just to the east of the site, to facilitate safe access for pedestrians to and from the northern side of the road. A new improved pedestrian footpath would also be formed on Bradbourne Lane.
- 1.2 The building would be located in the southern half of the site; some excavation and retaining of the rear bank would be required to facilitate this. The building is roughly rectangular in shape and generally single storey, to a maximum of 7.4m in height. Some upstairs office space and staff toilets would be located within the roof. The delivery point is on the opposite side of the building to the pedestrian entrance, in the south eastern corner.
- 1.3 Access into the building would be on the western elevation to the side of the building, facing towards Bradbourne Lane. Access to the site is via the existing access point onto London Road, with some adjustments made to ensure adequate visibility and manoeuvring for HGV deliveries. To the front of the site 77 parking spaces would be provided, including 6 disabled bays, 4 family parking spaces and two electric vehicle charging points.
- 1.4 Whilst this application is made by Lidl, in terms of the use sought, it would be for unrestricted A1 use, in that any other retail operator could take over the premises in future if Lidl chose to vacate the site. The application must be considered on the basis of the use class in planning terms, not the applicant, as this could change in future.
- 1.5 A second round of public consultation was launched on the 22 April in response to new information provided by the applicants to address consultee comments and increase landscaping provision. A third and final consultation was carried out in June 2020 following receipt of Kent County Council Highways & Transportation comments, in which they confirmed that a new pedestrian crossing on Bradbourne Lane would be required. The description of the proposed development was

amended to include this and a consultation was carried out to seek views of third parties.

2. Reason for reporting to Committee:

- 2.1 At the request of Councillor David Cooper in order to consider the need for an additional supermarket in this area and the effect it will have on the traffic congestion on the A20.

3. The Site:

- 3.1 The site is a former car garage, located on the south side of London Road within the settlement confines of Ditton. The premises currently contains a number of large buildings including the showroom and servicing area. Bradbourne Lane runs along the eastern side of the site, with land levels rising to the rear. Banks surround the site, enclosing it from the back and sides.
- 3.2 Surrounding land uses are varied, with mostly residential dwellings located directly behind the site and on the eastern boundary. Bradbourne Lane separates the site from other properties and a restaurant. Further up the road are the shops and commercial properties of Martin Square.
- 3.3 The site lies just outside of the Martin Square Larkfield retail centre, as defined under policy R1 of the Development Land Allocations DPD. The boundary of the retail centre ends with the small parade of shops adjacent to Larkfield Close to the west, the site lies roughly 80m to the east. The frontage of the site and London Road falls within an Air Quality Management Area (AQMA). There are no other relevant designations on the site.

4. Planning History (relevant):

TM/79/11071/FUL grant with conditions 30 January 1979

Erection of car workshop.

TM/82/11099/FUL grant with conditions 30 June 1982

Erection of new building to provide vehicle spares store, sales, staff room, office and toilets in replacement for existing stores/lubrication bay.

TM/83/10316/ADV grant with conditions 15 July 1983

Erection 3 illuminated signs on building within service station curtilage.

TM/90/10419/FUL grant with conditions 5 October 1990

Redevelopment of Service Station; a) demolition of body repair shop; b) conversion of showroom to body repair and PDI bays; c) erect new showrooms with offices over and d) workshop extension.

TM/91/10696/FUL grant with conditions 27 March 1991

Demolition of forecourt canopy and part of existing building, erection of single storey office block extension.

TM/92/00205/FL grant with conditions 9 July 1992

Replacement shopfront

TM/92/10664/ADV grant with conditions 24 March 1992

Internally illuminated signs.

TM/94/00344/FL grant with conditions 21 March 1994

Alterations to existing workshop and showroom areas. Extension to form showroom offices

TM/95/00123/AT grant with conditions 15 June 1995

Advertisement Application: single sided internally illuminated wall mounted sign

TM/96/00124/FL Section 73A Approved 29 March 1996

temporary stationing of a portacabin for a period of five years

TM/04/01537/FL Grant With Conditions 29 June 2004

Conversion of existing stores and retail parts to car showroom, offices and retail parts

TM/06/01244/FL Grant With Conditions 3 July 2006

Conversion of existing stores and retail parts building into car showroom, offices and retail parts (Revisions to approved scheme TM/04/01537/FL)

TM/19/02355/DEN Prior Approval Not Required 7 November 2019

Prior Demolition Notification: Two unoccupied light retail units, previously used as car showrooms, now unoccupied. Constructed with brickwork, steel structures and minor glass panelling; terrace of 3 small workshop buildings, constructed with brickwork; and one workshop building

5. Consultees:

5.1 **Ditton Parish Council:** Objections raised for the following reasons:

- 5.1.1 Impact of more traffic on the A20 which is already at capacity and gets gridlocked on regular basis – KCC have put a holding objection on another development in the area until the traffic improvements are made to the A20 so to allow this development would go against this. The traffic studies given have not used current data [2017 was used] plus add to this the huge proposed development recently given outline permission at Hermitage Lane, the increase in traffic in the coming years will be immense. It will not just be local people using the store - they will come from surrounding towns if it is their nearest Lidl discount food store.
- the access on the A20 will cause terrible problems as it is dangerously close to the junction with Bradbourne Lane. It would be very dangerous for cars entering/exiting the site crossing the path of the traffic so close to the junction. There is also concern about how large delivery lorries would be able to enter/exit the site safely as they would often be crossing two lanes of very busy traffic.
 - Because the site is close to Bradbourne Lane it is likely people using the store will find it too difficult to turn right on to the A20 therefore they will turn left onto the A20 and then left into Bradbourne Lane which leads into St Peters Road. These are small residential streets and cannot cope with even more cars using them as a “rat run” the impact on the residents would be harmful to their residential amenities.
 - When the large “Redrow” housing estate known as Bradbourne Fields was built in neighbouring East Malling, the application included a second access route off of Bradbourne Lane – this was refused by TMBC because it was deemed that Bradbourne Lane and St Peter’s Road would be unsuitable to take all the extra traffic that would be using them. That was approximately 30 years ago and traffic has increased substantially in recent years.
- 5.1.2 Pollution – Ditton Corner has already been designated as an AQMA and to allow more traffic in this area would have a negative impact on the already poor air quality in this part of the village. CPRE [Campaign for the Protection of Rural England] recently won an appeal against a development of new homes at Pond Farm, Newington because increased car use would exacerbate already high levels of pollution on that part of the A2. The same would be the case on this stretch of the A20 if any further development that will mean an increase in traffic is permitted.
- 5.1.3 The Parish Council has received many objections from local residents who are also very concerned about the impact of traffic and pollution. In particular one resident who lives immediately next to the site and has 18m high trees covered by TPOs on his property – the application shows that Lidl will cut through the roots of these trees where they cross the property boundary. This will weaken them and

could lead to them falling onto the A20. Many others have questioned the need for another supermarket when we have 9 all within a 10 minute drive or less of each other.

5.1.4 In 2017 TMBC refused permission for a car wash to be built at 10 Bradbourne Lane. The reason for refusal was that the “use would, by reason of the proximity to residential properties, result in unacceptable noise and disturbance to these properties. This would consequently result in harm to the residential amenities of the nearby properties which is contrary to policy CP24 of the Tonbridge & Malling Core Strategy 2007”. To allow a supermarket to be built immediately next door to one residential property and in such close proximity to others would result in harm to the residential amenities of these properties.

5.1.5 The Parish Council supports all of the objections and concerns raised by residents.

5.2 **East Malling & Larkfield Parish Council:** The application site is within Ditton parish but on the other side of the A20 the houses in The Ferns at a lower level are in this Parish. While the site was originally a garage and car sales business the change of use of the land to a supermarket is likely to have more cars visiting throughout the day and in the evenings when the garage was closed. The parish council is therefore concerned about the impact on the already congested A20 and notes the KCC have yet to comment.

5.2.1 It is noted that the existing access of the A20 roughly in the middle of the site is to be used and the secondary access on the corner of Bradbourne Lane kerbed off with some landscaping. The documents refer to this access being constructed

5.2.2 According to highway standards and the parish council would like to see what is precisely proposed. It is particularly concerned about traffic turning right into the site and turning right out of the site towards Maidstone. A peak times there is often a queue of traffic back from the Ditton crossroads to and past this site.

5.2.3 There is also concern about delivery lorries accessing the site and a clear pathway needs to be defined. When the garage operated transporters delivered new cars by parking in the A20. If this store were approved delivery vehicles should be able to access and egress from the site without manoeuvring on the A20.

5.2.4 The parish council will make further comments when the KCC position is clear but if permission were to be granted then it considers:

a) There should be double yellow lines on both sides of the A20 outside the site to prevent parking so affecting the flow of traffic along the A20. These should be paid for by the applicant.

b) Electric charging points should be provided within the site. Ten are suggested.

- c) The opening times proposed should be made a condition and also times specified for deliveries to avoid unsocial times that would affect the houses both in the parish and Ditton in the vicinity.
- d) All lighting should be low level and no illuminated signs erected without specific permission.
- e) There should be a landscaping and boundary treatment condition.
- f) Similarly, a condition concerning the positioning and screening of rubbish bins
- g) The A20 strategy proposes a crossing on the A20 at this point and this needs to be taken into account so there is no conflict with the site access..

5.2.5 The Parish Council has not commented on the retail effect of the proposed supermarket and notes from local social media there is support for such a “discount” store coupled with others saying it would affect nearby Morrisons in the Larkfield Local Centre. There are also the shops in Martin Square. The parish asks so far as the planning system allows this be assessed.

5.2.6 Given the controversial nature of the proposal we think it should be reported to the Area 3 Planning Committee.

5.3 **Aylesford Parish Council:** Whilst this application is outside of the Parish Council area the Council believes that this application has a direct impact on the Parish and its residents. Therefore, having given careful consideration to this application the Council would wish to see it refused on the following grounds:-

1. This site whilst remaining retail changes from a site with limited car movements, car showrooms, to a supermarket with significantly more traffic movements onto an already over capacity A20 between two of its most significant congestion points at the Ditton Crossroads and the junction with New Hythe Lane.
2. That the increased traffic movements would only make worse the air quality in this area which is already designated an AQMA suffering from poor air quality.

5.4 **Kent County Council (Highways and Transportation):** Since my response of 14th January, the applicant has submitted a revised Transport Assessment dated March 2020 and an additional Technical Note dated 15th May. This has followed discussions with the applicant and the applicant’s agents. Drawings showing modifications to the surrounds of the site have also been submitted which include a footway to the northern end of Bradbourne Lane next to the site and a formal signalised crossing on the A20 which the applicant has confirmed will be funded by them and incorporated into the scheme.

Traffic Generation:

- 5.4.1 Most telling or illustrative in traffic generation terms is the graph given on page 4 of the 15th May Technical Note. This shows the flow profile of A20 traffic, notably in the afternoon the peak is between 3pm to 4pm, probably reflecting local school run traffic, whilst more strategic 5pm to 6pm traffic is likely to be more evident on the M20. The scale of the total Lidl demand is given on this graph and shows its proportional effect. The graph shows that if all trips generated by the development were 'new trips' and not pass-by or diverted trips already on the network then there would be an increase in traffic of approximately 8% during the afternoon peak period.
- 5.4.2 However some of this demand will come from passing A20 traffic, therefore the super elevation of total Lidl demand on A20 traffic here is partially double counting. Shopping is a discretionary activity regarding when it is undertaken. For an A1 shop like this, demand is largely fulfilled by a combination of passing or minor detour convenience shops, or on a more regular basis (such as weekly) by habitual convenience, determined from experience that suits individuals or families. Shopping is a consequence of a population base; it is not in itself a primary traffic generator such as housing or employment.
- 5.4.3 The test against which local traffic generation is considered acceptable or not is paragraph 109 of the National Planning Policy Framework (NPPF) February 2019. 109. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 5.4.4 I do not consider, on behalf of this authority, that an assertion that this store will generate severe levels of traffic impact on the road network could be sustained.

Road Safety:

- 5.4.5 There have been 2 slight injury crashes on the A20 in the vicinity of this site in the last 3 years. One involved a cyclist falling from their bike after the chain slipped on the gears. The other involved a westbound 3 vehicle rear end shunt at the site access after the first vehicle braked sharply before stationary traffic. Records show this area has not been a KCC crash cluster site for at least 5 years. The proposals include provision of a footway on the northern section of Bradbourne Lane to assist sustainable/walking trips to the store from the south. The applicant has also confirmed the funding of a formal pedestrian crossing on the A20, again promoting the safety of sustainable trips from the north-east. A pedestrian crossing island is located adjacent to Larkfield Road for walking trips from the north-west. The proposal will also close and replace the former unorthodox access at the eastern corner of Bradbourne Lane with the A20, with raised kerbs and footway continuity.

5.4.6 In the context of the injury crash history at this location and the associated off-site highway works proposed it is not considered that there are grounds to constitute an unacceptable impact on highway safety.

Parking Management:

5.4.7 I understand that, apart perhaps from a store manager, Lidl's policy is to retain parking spaces for customers and not to provide any dedicated staff car parking. I note from the application form that it is expected that the store will provide 40 full time employees. I also note from the consultants Travel Plan (TP) that, whilst Lidl's also have a policy to recruit locally (page 23 of the TP), 63% of staff might be expected to travel to work by car (page 19 of the TP) i.e. in this case 25 vehicles might be expected to park off site.

5.4.8 I note there are double yellow lines east of the eastbound bus stop near Bell Lane and double yellow also commencing on the site frontage to west of Bradbourne Lane. The Highway Authority wishes to maintain the A20 as a corridor which keeps traffic moving and it has recently undertaken a lot of work (studies and proposals and recent implementation with more to follow) to improve traffic flow. It is considered that continuity of parking restriction proposals on the A20 should be included as part of the implementation of the signalised crossing proposed (which will include associated zig-zag markings). It is further considered that a review of on street parking restrictions for Bradbourne Lane should be undertaken and proposals made by the applicant for approval prior to implementation.

Conclusion:

5.4.9 On behalf of this authority I write to confirm that I have no objection to this application subject to the following conditions: -

- Prior to commencement a Stage 1 Safety Audit and Designers Response of the proposed signalised crossing on the A20 shall be undertaken and submitted to the Planning Authority.
- Parking restriction proposals for the A20 and Bradbourne Lane shall be submitted to the Planning Authority for approval prior to commencement.
- Prior to opening the signalised crossing, use of Keep Clear markings, new footway on Bradbourne Lane and at the corner of Bradbourne Lane with London Road A20 shall be implemented via a S278 agreement with this authority.
- Prior to opening new parking restrictions shall be implemented on the A20 and Bradbourne Lane. The necessary traffic orders shall be carried out via this authority's 3rd party traffic regulation order process.
- Submission of a Construction Management Plan before the commencement of any development on site to include, but not necessarily limited to, the following:

- (a) Routing of construction and delivery vehicles to / from site
 - (b) Parking and turning areas for construction and delivery vehicles and site personnel
 - (c) Timing of deliveries
 - (d) Provision of wheel washing facilities
 - (e) Temporary traffic management / signage
- Provision of measures to prevent the discharge of surface water onto the highway.
 - Provision and permanent retention of the vehicle parking spaces and/or garages shown on the submitted plans prior to the use of the site commencing, including the Electric Vehicle charging spaces (nos. 32 and 33).
 - Spaces 25 to 31 inclusive (to the west of the proposed Electric Vehicle spaces) shall include underground ducting to enable easy potential future provision of further electrical charging stations.
 - Provision and permanent retention of the vehicle loading/unloading and turning facilities shown on the submitted plans prior to the use of the site commencing.
 - Provision and permanent retention of the cycle parking facilities shown on the submitted plans prior to the use of the site commencing.
 - Completion and maintenance of the access shown on the submitted plans prior to the use of the site commencing.

5.4.10 Kent County Council (Highways and Transportation) further comments 6th

July 2020: Following my response of 10th June regarding this application I note the exchange of emails of 24th June, within which the applicant's agent has submitted further information regarding staffing levels at any one time at Lidl's stores. I note that typically the store may be expected to be operated by 6 to 8 staff, and on peak times of the year this may increase to ~ 10 staff.

5.4.11 Using the factor given previously of '63% of staff might be expected to travel to work by car (page 19 of the submitted Travel Plan)', this means that 6-7 staff cars might be expected, during peak conditions, to need to find off site car parking in the area.

5.4.12 I understand that the applicant is happy to accept the suggestion/condition made in my response of 10th June that parking restrictions are implemented on the A20

and that a review of on street parking on Bradbourne Lane should be undertaken and proposals made by the applicant for approval prior to implementation.

5.4.13 To clarify therefore the conclusions and conditions to my response of 10th June effectively remain unchanged; the expected impacts of off-site staff car parking will be lower however than suggested; the response on 10th June being based on the information submitted by the applicant at that time.

5.5 **Kent County Council (Heritage Conservation):** Thank you for your letter consulting us on the above planning application for demolition of existing buildings and erection of foodstore with associated works.

5.5.1 The site of proposed development lies adjacent to a possible Roman road and an extensive Romano-British settlement and cemetery, Bradbourne Fields, lie a few metres to the SE. Although part of the site has been quarried and disturbed from existing buildings, there is still potential for Prehistoric and later, especially Roman, remains to survive on site. In view of this potential, I recommend the following condition is placed on any forthcoming consent:

AR1a Prior to the commencement of development the applicant, or their agents or successors in title, will secure and implement:

i archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and

ii further archaeological investigation, recording and reporting, determined by the results of the evaluation, in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority

Reason: To ensure that features of archaeological interest are properly examined and recorded.

5.6 **Kent County Council (Flood and Water Management):** Kent County Council as Lead Local Flood Authority have reviewed the Technical Note for drainage proposals and have the following comments:

5.6.1 We understand that the strategy has been updated to allow for infiltration on site following our consultation. It is noted that infiltration testing has since been undertaken on site by Remada and the rate of 4.3×10^{-6} m/s (0.015m/hr) was calculated. This rate is not ideal and it is accepted that the half drain time of the infiltration tank would exceed 24 hours. Therefore, we would agree that an overflow (2 l/s) from the infiltration tank to the sewer along London Road is a sensible and pragmatic approach that would allow for attenuation space between storm events.

- 5.6.2 We would advise that a non return valve is installed prior to the connection to the sewer on London Road. This valve is to prevent any back flow to the soakaway in the unlikely event of surcharging sewers.
- 5.6.3 Paragraph 1.17 from the Technical Note is understood for additional infiltration testing to be undertaken and we would strongly urge that further ground investigations are also carried to confirm there is no existing contamination from the sites past use. Should it be found that contamination is present at the location of the soakaway, a strategy of attenuation and controlled discharge would need to be adopted. This would likely be similar to that proposed previously within the Flood Risk Assessment and Drainage Strategy by SCP (November 2019).
- 5.6.4 On this basis from the current information supplied, we have no objections to the drainage strategy presented. Therefore should the Local Planning Authority be minded to grant planning permission, we would recommend the following conditions are appended. (*Officer note – for condition wording see back of report*)
- 5.7 **Environment Agency:** The previous commercial use of this land as a filling station and garage with associated workshops has left contamination which could impact on the proposed development or cause it to impact on the environment, as identified in the Geo-Environmental Assessment Report (Brownfield Solutions LTD, ref LG/M3998/8471 Rev A, May 2019). This report concludes that further investigation is required to identify any underground storage tanks and potential impacts to groundwater. The recommendations and analysis of risks and liabilities detailed in the submitted site investigation report are agreed in principle, as are the proposals for a remediation strategy and verification report. However, any relevant planning condition should not be discharged until all the works are complete and a verification report submitted confirming no additional measures were required during groundworks.
- 5.8 **Kent Police:** We have reviewed this application in regard to Crime Prevention through Environmental Design (CPTED) and in accordance with the National Planning Policy Framework (NPPF).
- 5.8.1 Applicants/agents should consult us as local Designing out Crime Officers to address CPTED. We use details of the site, relevant crime levels/type and intelligence information to help design out the opportunity for Crime, Fear of Crime, Anti-Social Behaviour (ASB), Nuisance and Conflict.
- 5.8.2 Secured by Design (SBD): www.securedbydesign.com is the UK Police flagship initiative for security.
- 5.8.3 To meet SBD physical security requirements, SBD require doorsets and windows to be certified by an approved independent third-party certification body e.g. (UKAS) in the name of the final manufacturer/fabricator. This requirement exceeds the requirements of Building Reg ADQ. Products that are independently certificated to recognised security standards have been responsible for

consistently high reductions in crime as verified by numerous independent academic research studies. Details of how to ensure products are certified are on the SBD website.

5.8.4 If this application is to be approved we strongly request a Condition/Informative be included to address the points below and show a clear audit trail for Design for Crime Prevention and Community Safety to meet our and Local Authority statutory duties under Section 17 of the Crime and Disorder Act 1998.

5.8.5 Having reviewed the application on-line the following issues need to be addressed from a CPTED aspect, including:

- 1. Development layout and permeability.*
- 2. Delivery times should be appropriate and not cause noise or congestion nuisance to local residents. Delivery vehicles should not wait on the main London Road whilst waiting to deliver/collect.*
- 3. The site appears to have a shared public and delivery vehicle access. It is essential that deliveries are managed to ensure no conflict between public and delivery movements, in the interests of site safety.*
- 4. Perimeter, boundary and divisional treatments including gates. It should not be possible for unauthorised persons to access the sides and rear of the building.*
- 5. Parking inc. visitor. The use of the Park Mark Safer Parking Scheme is recommended.*
- 6. CCTV. CCTV should be installed to cover the main entrances/exits, all elevations and carpark area, in the interests of security.*
- 7. Access Control. Access control measures will be required to protect the first floor office level.*
- 8. Doorsets and windows. We refer the applicant to the SBD Commercial guide for specifications.*
- 9. Security. We appreciate that Lidl will have their own security specifications for the final fit out of the building, should it receive planning consent. We recommend the use of the SBD Commercial initiative for this proposal.*
- 10. Alarms. A full security alarm system should be installed.*
- 11. Landscaping.*
- 12. Lighting. Lighting should conform to BS 5489-1:2013 as per SBD Commercial.*
- 13. ATM. If an ATM is to be installed, we request that we be formally consulted.*

- 5.8.6 We welcome a discussion with the applicant/agent about site specific designing out crime. If the points above are not addressed, they can affect the development and local policing. Current levels of reported crime have been taken into account. This information is provided by Kent Police DOCO's and refers to situational crime prevention. This advice focuses on CPTED and Community Safety with regard to this specific planning application.
- 5.9 **Natural England:** Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.
- 5.10 **Southern Water (9th January 2020):** Please find attached a plan of the sewer records showing the approximate position of a public foul sewer within the site. The exact position of the public foul sewer must be determined on site by the applicant before the layout of the proposed development is finalised.
- 5.10.1 No development or tree planting should be carried out within 3 metres of the external edge of the public gravity sewer without consent from Southern Water. No soakaway, swales, ponds, watercourses or any other surface water retaining or conveying features should be located within 5 metres of a public sewer.
- 5.10.2 All existing infrastructure should be protected during the course of construction works. We have restrictions on the proposed tree planting adjacent to Southern Water sewers, rising mains or water mains and any such proposed assets in the vicinity of existing planting. Reference should be made to Southern Water's publication "A Guide to Tree Planting near water Mains and Sewers" and Sewers for Adoption with regards to any landscaping proposals and our restrictions and maintenance of tree planting adjacent to sewers and rising mains and water mains.
- 5.10.3 Furthermore, it is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.
- 5.10.4 Southern Water has undertaken a desk study of the impact that the additional foul sewerage flows from the proposed development will have on the existing public sewer network. This initial study indicates that there is an increased risk of flooding unless any required network reinforcement is provided by Southern Water.
- 5.10.5 Any such network reinforcement will be part funded through the New Infrastructure Charge with the remainder funded through Southern Water's Capital Works programme. Southern Water and the Developer will need to work together in order to review if the delivery of our network reinforcement aligns with the

proposed occupation of the development, as it will take time to design and deliver any such reinforcement.

5.10.6 Southern Water hence requests the following condition to be applied “Occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate waste water network capacity is available to adequately drain the development”.

5.10.7 It may be possible for some initial dwellings to connect pending network reinforcement. Southern Water will review and advise on this following consideration of the development program and the extent of network reinforcement required. Southern Water will carry out detailed network modelling as part of this review which may require existing flows to be monitored. This will enable us to establish the extent of works required (If any) and to design such works in the most economic manner to satisfy the needs of existing and future customers.

5.10.8 Our assessment of the timescales needed to deliver network reinforcement will consider an allowance for the following:

- Initial feasibility, detail modelling and preliminary estimates
- Flow monitoring (If required)
- Detail design, including land negotiations
- Construction

5.10.9 The overall time required depends on the complexity of any scheme needed to provide network reinforcement. Southern Water will seek however to limit the timescales to a maximum of 24 months from a firm commitment by the developer to commence construction on site and provided that Planning approval has been granted.

5.10.10

The planning application form makes reference to drainage using Sustainable Urban Drainage Systems (SUDS). Under current legislation and guidance SUDS rely upon facilities which are not adoptable by sewerage undertakers. Therefore, the applicant will need to ensure that arrangements exist for the long-term maintenance of the SUDS facilities. It is critical that the effectiveness of these systems is maintained in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system. Thus, where a SUDS scheme is to be implemented, the drainage details submitted to the Local Planning Authority should:

- Specify the responsibilities of each party for the implementation of the SUDS scheme.
- Specify a timetable for implementation.
- Provide a management and maintenance plan for the lifetime of the development.

5.10.11

This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. Our initial investigations indicate that there are no public surface water sewers in the area to serve this development. Alternative means of draining surface water from this development are required.

5.10.12

This should not involve disposal to a public foul sewer. The disposal of surface water from this development should be in compliance with the following hierarchy of Part H3 of Building Regulations:

- a) An adequate soakaway or some other adequate infiltration system.
- b) A water course.
- c) Where neither of the above is practicable: a sewer.

5.10.13

Land uses such as general hardstanding that may be subject to oil/petrol spillages should be drained by means of oil trap gullies or petrol/oil interceptors. The design of drainage should ensure that no land drainage or ground water is to enter public sewers network. We request that should this application receive planning approval, the following condition is attached to the consent: "Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water."

5.10.14

Southern Water (6th May 2020): Further to your letter of 09/01/2020 and amended information provided by the applicant regarding surface water disposal. The use of soakaways for surface water disposal would be satisfactory to Southern Water. The Council's Building Control officers or technical staff and Environment Agency should be asked to comment on the adequacy of soakaways to dispose of surface water from the proposed development.

5.10.15

However, the proposed overflow from the infiltration tank is not acceptable to Southern Water. No overflows from infiltration facilities will be allowed to

communicate with public sewers. It is important that no surface water or ground water is permitted to enter the foul sewerage network.

5.10.16

Southern Water (22nd May 2020): The Submitted drainage drawing SF/LIDLITTON.10 P5 is satisfactory to Southern Water. The Council's Building Control officers/technical staff and the Environment Agency should be consulted regarding surface water disposal.

5.10.17

Due to the vibration, noise and potential odour generated by sewage pumping stations, no habitable rooms should be located closer than 15 metres to the boundary of a proposed pumping station site. All other comments in our response dated 09/01/2020 remain unchanged and valid.

5.11 **TMBC Environmental Protection (Contaminated Land):** Based on the review of:

- Geo-Environmental Desk Study Report (WSP, October 2018)
- Geo-Environmental Assessment Report (Brownfield Solutions Limited, May 2019)

5.11.1 The desk study report presents the findings of a desk study only; no walkover was undertaken. It identified potential sources of contamination, particularly in relation to the site's former use as a petrol filling station. An intrusive investigation was recommended. The assessment report presents the findings of the intrusive investigation. Significant widespread contamination was not identified, however further investigation is required to determine the presence of any below ground fuel tanks. I agree with the requirement for further works and as such recommend the following conditions. (*Officer note – for condition wording see back of report*)

5.12 **TMBC Environmental Protection (Noise & Lightning):** The Applicant has submitted a revised Noise Impact Assessment from their Consultant Acoustic Consultants Ltd (their ref 7900/FD, dated 26 March 2020), taking on board my earlier comments. The revised Assessment satisfactorily addresses each of the concerns raised and I am generally content with the outcome. I remain a little concerned over the proposed delivery/collection times and feel that up to 23:00 is a little late for this locality. The Nearest Noise Sensitive Receptors are immediately adjacent to the site and also to the delivery bay. I do acknowledge that the modelled data indicates that this activity should not cause issue though. I would suggest that were deliveries/collections to be completed by 21:30, this would be acceptable.

5.12.1 To confirm that the submitted information for the lighting at the site indicates that it should not cause undue problems and I am content.

5.13 **TMBC Environmental Protection (Air Quality):** The Air Quality report is fine with the amendment added.

5.14 In total across all three consultations, Private Reps amount to: 315 + site notice/8X/152R/153S. One petition containing 609 signatures in objection. Objections received from Tesco Stores Ltd, Asda Stores Ltd and Wm Morrison Supermarkets plc.

Objections summarised as follows:

- Query Asbestos on site
- Query fuel tanks on site
- Concerns on traffic generation
- Request streetscene plans
- Concern on highways safety
- No need for another supermarket
- Concern on right hand manoeuvres from site by vehicular traffic
- No provision for staff parking
- Local roads filled
- A20 is congested
- Concern on impact on trees
- Concern Lidl has sidestepped policy
- Query neutrality of Environmental Reports
- Night time deliveries will be intrusive
- Concern on emissions impacts
- Need more doctors and an NHS dentist
- Concern on noise impact
- Concern over light pollution
- Entrance should be from Bradbourne Lane
- Building is too close to neighbours
- Too many developments in the area
- Should be put to use for apartments
- Look forward to 40ft lorries blocking the A20
- Exacerbate effects on local environment
- Should be used for local housing need
- Unsuitable for busy shopping traffic
- Object on highways grounds
- Insufficient parking
- Need separate delivery entrance
- Concern over proposed crossing being in the way of HGV swept paths
- Road infrastructure can't cope
- Alarmed Lidl have already acquired the site
- Devastating impact on our village
- No benefit
- Will cause ill health to young and old
- 8 supermarkets in a 3 mile radius
- Question retail store in residential area

- Ditton losing character
- Please stop spread of urban sprawl and ugly commercial signage
- Not Los Angeles
- Should build affordable houses
- Staff will not walk
- Existing use car movements different
- Concerns on disposal of food, impact of rodents
- Query usage of TRICS data
- Part rent part buy affordable housing would be better
- Should be no more traffic lights
- Question job losses from competing supermarkets
- Impact on Air Quality Management Area (AQMA)
- Existing long delays on road, A20 is a car park when M20 shut
- Concern over retail impact on established and hard pressed shops in area
- Concern over possibly biased consultation exercise
- Overdevelopment of area
- Risk to pedestrians and cycles
- Store hours will be extended
- No benefit to neighbours
- Question biased consultation exercise
- Local stores will close
- Emergency route to the hospital
- Conflicts with proposed pedestrian crossing – HGV exit not possible
- Pollution increase
- Should be in Tonbridge
- Problems with turning from Aldi in Sevenoaks
- Insufficient information to consider retail impact, assessment should be provided
- Turnover more similar to traditional food store operators not “deep discounters”
- Does not meet parking standards
- TRICS data used is not from South East, different traffic pressures

Comments in support summarised as follows:

- No objection if adequate parking
- Welcome variety in shops
- Increased convenience
- Welcome employment provision but query zero hour contracts
- Beneficial to local community
- Welcome use of solar panels and EV charging points
- Request footpath from Bradbourne Road (*Officer Note: This has now been provided*)
- Already a structure in place, no harm in building another
- Create local jobs
- London Road review will help mitigate traffic
- Look forward to the grand opening

- Disappointed not 24 hours opening
- Traffic will be minimal
- Perfect spot
- Area needs a good quality up market supermarket
- Benefit residents who would have to get the bus for food shopping
- Building will enhance the site
- Previous car workshop spray painting caused pollution
- Competitively priced food store in walking distance
- Hope is approved
- Walking will reduce traffic
- NIMBYS should be ignored
- Positive, green development
- Store within walking distance
- Competition is a good thing
- Reduce travel distance to current nearest store in Maidstone
- Highways issues will be ironed out
- Fully support, request disabled toilet
- Welcome location
- Much needed and wanted
- Will take customers from existing stores, could reduce traffic
- No different to previous car showroom use
- Asset to local community
- Excellent value for money
- Better than houses
- Reduce congestion around Sainsbury's and Aldi
- Good employer reputation
- Give us access to ostrich burgers and the like
- End Tesco's monopoly
- Existing site an eyesore
- Should be developed before it becomes vandalised
- Suggest double yellow lines along Bradbourne Road
- Local people employed will have reduced carbon footprint
- Flats would lower property values
- GP not realistically going to happen
- Desperate need for affordable supermarket
- Would like more parent/child & disabled parking bays
- Lidl use British products and support local suppliers
- Parking can also be used for local bank where parking is short

5.15 Comments in response to second consultation launched 22.04.2020:

Objections summarised as follows:

- Crossing and lights would not be welcome in already congested area
- Historic accidents do not comment on potential new and additional accidents
- Parking insufficient, will result in overspill and accidents
- Footfall along roads will increase

- Delivery bay will not resolve noise
- Parking spaces (71) will be significantly less than those required by Kent parking standards (126)
- Aldi in Aylesford results in parking overspill into adjoining roads and car parks of adjacent stores
- Crossing would add to traffic
- Sensible solution is a new footbridge
- Risk of accidents will increase significantly
- Travel plan does not take account of lockdown – shops will have to enter alone
- Travel plan should re-analyse data to assume single occupancy cars will be the rule rather than exception
- Transport survey in fantasy land, no one will walk home with shopping
- How will car park and shop deal with social distancing
- Council should ensure no evening deliveries by condition, and monitoring noise levels
- Object to delivery bay, light pollution
- Parking will occur behind store on grass verges
- No room for lorries to enter and exit safely
- Amendments make no difference
- Artists impression is misleading, shows an empty London Road which does not exist
- Slow turning vehicles will slow traffic on London Road and cause more pollution
- Where will 40 Members of staff park their car please
- Counterproductive to KCC Highways spending money here to alleviate congestion

Comments in support summarised as follows:

- Amended documents have only made me firmer in my support
- Extra crossing and footpath is to be welcomed
- Excellent bus service for car free shopping
- Fully support, will make life easier and healthier
- Good to have Lidl in the area

5.16 Private reps following final consultation 24.06.2020:

Objections summarised as follows:

- Query staff parking is 25 staff are expected to drive to work
- Nowhere to park in the vicinity
- Previous use has problem with staff parking
- If planning is passed there needs to be a condition of no parking on the pavement outside entrance
- Parking restrictions on Bradbourne Lane will make things awkward for residents
- New cycle lanes will be at risk

- Historic accident data not reflective
- Cars going into Kia garage was minimal
- Not all trips will be passing trade
- Query if KCC response is same person responsible for Hermitage Lane McDonald's traffic fiasco
- No consideration of abandoned cars due to inadequate parking provision
- Was traffic survey completed in half term?
- Madness
- A20 is a joke and so is Tonbridge and Malling
- Right turn exit from the site will be very frustrating
- Traffic lights for exit are needed but will cause more delays
- Applicants failure to provide Retail Impact Assessment has not been satisfied
- Failure to provide detailed acoustic assessment conflicts with policy CP24
- Will not generate linked trips to district centre
- Will reduce shoppers in district centre
- Query alternative site next to Wealden Hall
- Residential amenity impact not addressed
- Previous evidence contradicts Lidl and Aldi evidence on "on network" trips
- Has cumulative impact of consented EMR scheme been considered?
- Introduction of another controlled junction will impact traffic flow on London Road
- KCC response based on theoretical data, busiest time is not just school run peak
- Previous theoretical assessments by KCC proved total inadequate
- Signal crossing will cause problems and right turn
- Parking overspill not properly considered
- Diminish community and amenity of centre of Larkfield
- Martin Square could accommodate new store
- South Aylesford has new development opportunities
- Undoubtedly harm infrastructure
- Direct conflict with policy CP22
- No evidence on position of pedestrian crossing
- No dialogue referring to other locations for crossing
- No evidence on dimensions of road and whether wide enough for crossing
- Not accessible by bicycle
- Insufficient on site manoeuvring for HGVs, will result in traffic stopping on the road
- Examples of existing retail sites not comparable
- Does not address capacity, failure to comply with policy CP2
- Retail statement and Transport assessment inconsistent
- Traffic impacts are severe
- No road safety assessment provided
- Delivery vans along London Road obstruct traffic
- Pedestrian crossing would prohibit on road servicing
- Vehicle tracked is too narrow
- No consultation with neighbours regarding crossing
- Transport assessment raises more concerns than answers

- Proposal is out of centre
- Cannot be concluded no significant adverse retail impact
- Assessment should quantify impact from other nearby retail centres
- Sequential assessment flawed and insufficient
- Site better suited for housing
- Better suited for dentist or doctor surgery
- Query impact on A20 improvement works
- Should be on site of Aylesford Newsprint site
- Additional crossing not required
- Bradbourne Lane footpath insufficient
- Site meeting should be held with all interested parties
- Figures in KCC report too old and useless
- Do not account for consented housing development

Comments in support / neutral summarised as follows:

- Appropriate development for the location and fresh retail opportunity for local shoppers
- Medium sized discount supermarket will flourish
- Housing development would cause its own problems
- Family support application
- Neighbour who brought petition is opposed to all development, would have opposed development which result in his own home
- Do not agree that store will draw trade away from Martin Square
- Martin Square has health centre, post office and pharmacy that would be used regardless
- Also cycle shop, charities, takeaways, bookmaker
- Morrison's should look at their own retail model instead of blaming Lidl
- But then suggest alternative site even closer which undermines their whole argument
- Plus alternative site is ridiculous and does not exist being covered in trees
- Morrison's arguments are contradictory
- Hope new store will open soon and look forward to shopping there
- No congestion at New Hythe Lane junction to the west
- Previous objections on this point null and void
- KCC agree only nominal traffic build up
- Local store will save long and generous car journeys to next nearest store
- Facing difficult economic times this should be approved and jobs created sooner
- Being in walking distance will make my life easier and greener
- Query if development would negate positive efforts to address traffic flow on A20

6. Determining Issues:

- 6.1 The site lies within the settlement confines of Ditton in which there is no objection in principle to new built development. The key issues are whether this is an appropriate location for an A1 retail store and if so the effect on the vitality of

nearby retail centres, the impact on traffic, highways and parking, neighbouring amenity and the character and appearance of the area, flooding and drainage, air quality and protected species.

- 6.2 It is important to again clarify that this is an application for a new retail food store, use class “A1”. Although the application is made by Lidl, if permission is granted it could in theory be occupied by any company for general A1 use. It cannot be guaranteed that Lidl will occupy the store in perpetuity and so however unlikely this may be, the application must be considered on the basis of it being a new A1 retail store, and any perceived benefits or adverse impacts specifically of a new “Lidl” supermarket should not be taken into account.

Retail Impact – Policy Context:

- 6.3 The site lies outside of the defined local retail centre, Martin Square, Larkfield as defined under policy R1 (“Retail Centres”) in the DLADPD. The Martin Square retail boundary is located approximately 80m to the west of the site and contains the main concentration of retail shops in the area.
- 6.4 The Council’s development plan policy on new retail development is set out in policy CP22 of the TMBCS. It explains that new retail development will be permitted if it maintains or enhances the vitality and viability of the existing retail centres, and properly respects their role in the retail hierarchy in accordance with a sequentially preferable locational assessment. The policy sets out a sequential test for the preferred location for retail development. Firstly, it should be accommodated on sites located within the defined limits of the town, district or local centres. If this is not possible, then on edge-of-centre sites, but only if there is sufficient capacity and a retail need is demonstrated that cannot be accommodated within a town, district or local centre.
- 6.5 Thirdly, if an edge of centre site cannot be found, then on out-of-centre sites, but only if there is sufficient capacity and a retail need is demonstrated that cannot be accommodated within or on the edge of a town, district or local centre. Sites that are well related to an existing retail area will be preferred to ones that have no such relationship. Finally, policy CP22 is clear that proposals which might harm the vitality or viability of an existing centre either in terms of retail impact or, in the case of smaller centres, undermining the balance of uses or harming their amenity, will not be permitted.
- 6.6 Policy R1 of the DLADPD expands on policy CP22 by setting a defined retail hierarchy. District centres sit at the top of the hierarchy and include Martin Square, West Malling, and Borough Green as the important town centres (Tonbridge town centre has its own policy designation separate to this). Under District Centres there are two further categories which cover small retail centres providing more limited local services, and finally at the bottom of the policy ranking are the out of centre retail facilities, which includes Quarry Wood in Aylesford and Lunsford Park.

- 6.7 However, the TMBCS and the DLADPD were adopted in 2007 and 2008 respectively, and it is therefore necessary to consider the degree of consistency in these policies with retail policy set out in the NPPF.
- 6.8 Retail policy in the NPPF is set out under chapter 7, “*Ensuring the vitality of town centres*”. Under paragraphs 85 – 87, the NPPF explains that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Among other things, paragraph 85 states that planning policies should:
- a) define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters;
 - b) define the extent of town centres and primary shopping areas, and make clear the range of uses permitted in such locations, as part of a positive strategy for the future of each centre;
 - e) where suitable and viable town centre sites are not available for main town centre uses, allocate appropriate edge of centre sites that are well connected to the town centre. If sufficient edge of centre sites cannot be identified, policies should explain how identified needs can be met in other accessible locations that are well connected to the town centre
- 6.9 Paragraph 86 explains that local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.
- 6.10 Finally, paragraph 87 explains that when considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.
- 6.11 An edge of centre location is defined in the glossary to the NPPF as “*For retail purposes, a location that is well connected to, and up to 300 metres from, the primary shopping area. For all other main town centre uses, a location within 300 metres of a town centre boundary. For office development, this includes locations outside the town centre but within 500 metres of a public transport interchange. In determining whether a site falls within the definition of edge of centre, account should be taken of local circumstances*”.

- 6.12 The requirements of paragraph 85 and 86 for retail centres to be defined, to be established in a retail hierarchy, and the need to consider sequentially preferable locations starting with main town centre areas, then edge of centre, then out of town locations, are generally consistent with the aims of policy CP22 and the DLADPD. Paragraph 87 builds on this and gives preference to well-connected edge of centre locations that are readily accessible.
- 6.13 Additionally, paragraphs 89 and 90 of the NPPF explain further requirements for retail development outside of town centres (this includes edge of centre locations). The requirements of paragraph 89 set out that when assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floor space threshold. If there is no locally set threshold, the default threshold is 2,500m² of gross floor space. This should include assessment of:
- a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
 - b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).
- 6.14 Paragraph 90 makes it clear that where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 89, it should be refused.
- 6.15 Before considering sites not within the defined limits of the retail centre, policy CP22 also requires an assessment as to whether *“there is sufficient capacity and a retail need is demonstrated that cannot be accommodated within a town, district or local centre”*
- 6.16 However, national policy in the NPPF does not require a specific retail need to be identified as part of the sequential test when considering edge of centre or out of centre sites when determining planning applications. The fact that the development is being proposed is sufficient grounds to then consider the sequential tests and if the development is satisfactory in this regard and all other matters, then it can be approved irrespective of whether a defined or specific “need” for the development is identified. This is also consistent with the National Planning Policy Guidance (NPPG) on Town Centres and Retail. The NPPG is a material consideration and aides in the interpretation of NPPF policy.
- 6.17 Within the NPPG there is a clear distinction between the requirements for a sequential test in plan making (i.e. production of a local plan) and when making decisions on planning applications. In relation to plan making, paragraph 010 of the NPPG section “Town centres and retail” says a need for main town centre

uses must be assessed as part of the sequential test before allocating sites for retail development in a new local plan, but at paragraph 011 in relation to sequential tests for determining planning applications, there is no such requirement to assess a defined need for the development.

- 6.18 Therefore policy CP22 is considered to be unduly restrictive in this regard. Because this test is not fully consistent with the NPPF, only limited weight can be afforded to this aspect of the policy. Therefore, whilst acknowledging the primacy of the adopted development plan as set out in legislation, it is considered that material considerations in the form of the more up to date NPPF justify not rigidly applying the terms of policy CP22 (b), insofar as a specific retail need has to first be identified. This interpretation has been confirmed by case law in *Warners Retail (Moreton) Ltd v Cotswold District Council & Ors [2016]* in which Lindblom LJ stated:

“The NPPF was published as planning policy for England in March 2012. It superseded much of the then extant national planning policy, including Planning Policy Statement 4 – “Planning for sustainable economic growth”, published in December 2009 (“PPS4”), which had replaced Planning Policy Statement 6 – “Planning for Town Centres”, published in March 2005 (“PPS6”). PPS6 had contained a policy requiring additional retail development outside a town centre to be justified by a demonstration of the need for the development, the two main elements of need being “quantitative need” and “qualitative need” (paragraphs 2.32 to 2.40). This component of national policy was not carried forward into PPS4, or subsequently into the NPPF. But the “sequential approach” was.” [Para 8 of his judgment]

- 6.19 The requirements for an identification of need in limb (b) to policy CP22 likely reflected the PPS guidance in place at the time the core strategy was adopted in 2007, long before the NPPF came into effect. This further demonstrates that an assessment of specific need should not be insisted upon.
- 6.20 Furthermore, the threshold for a refusal in terms of retail impact under policy CP22 is also significantly lower than the equivalent test set out under the more up to date NPPF. Paragraph 2 of policy CP22 sets out that “Proposals which might harm the vitality or viability of an existing centre either in terms of retail impact or, in the case of smaller centres, undermining the balance of uses or harming their amenity, will not be permitted”. However, the test under the NPPF for a refusal on retail impact on the vitality and viability of town centres is only where there is a “significant adverse impact”, as set out previously in this report under paragraph 90. “Significant adverse impact” is a much higher threshold than policy CP22’s “Proposals which might harm the vitality or viability of an existing centre”. “Might harm” is a particularly low threshold in comparison and suggests even when there is a vague prospect of a minor reduction in sales or footfall then planning permission should be automatically refused.

- 6.21 It is apparent from the framing of the wording in policy CP22 that its tests are not consistent with the requirements of the more up to date NPPF. As a result of this policy CP22 is again considered to be unduly restrictive in this regard. Because this test is not fully consistent with the NPPF, only limited weight can be afforded to this aspect of the policy. Therefore, whilst once more acknowledging the primacy of the adopted development plan as set out in legislation, it is considered that material considerations in the form of the more up to date NPPF justify not rigidly applying the terms of paragraph 2 of policy CP22, insofar as any retail development must be refused where it might harm the vitality and viability of retail centres.
- 6.22 Nonetheless, the overarching aim of CP22 and the relevant sections of the NPPF and NPPG is to prioritise the placement of retail development within town centre locations, in order to encourage investment, footfall and purchasing in these places, and increase the likelihood of “linked trips” whereby consumers visit multiple town centre businesses and help to support their vitality. Where retail development is located on edge of centre locations, the chances for this type of linked activity may decrease (although well connected sites may still enable this, hence their preference under paragraph 87 and CP22). With completely out of town locations the risk is that retail development will draw trade away from the town centre to the detriment of its vitality. For example, a very large out of town supermarket that can meet all the day to day needs of local people in a single trip, with no need to visit the town centre.
- 6.23 The application will therefore need to satisfy the locational requirements of policy CP22 and paragraphs 85 – 87, have due regard to the established retail hierarchy set out in policy R1, and consider the policy requirements for retail impact highlighted under paragraphs 89 and 90, in order for this location for A1 retail development to be considered acceptable. Given that a number of third party comments refer to there being no “need” for an additional supermarket in this location, it is also considered necessary to clarify this point.

Retail Impact – Whether there is a “need” for the proposed development:

- 6.24 As noted above, there is no policy requirement in the NPPF to consider if there is a particular identified need for an additional retail development. The fact that it is being proposed is sufficient grounds to apply the relevant policy tests. Whilst third party comments referring to the proximity of other supermarkets are noted, this does not preclude the applicants seeking permission for the proposed A1 development. It is a matter for the applicants to satisfy themselves as to whether a further A1 business is viable in this location but this is not a material planning consideration. The planning merits of the proposed use must be considered rather than theoretical alternative uses that are not before the Council.

Retail Impact – Location:

6.25 In terms of the location of this site for new A1 development, the applicants have assessed all available sites within the Martin Square retail centre. There is only one unit available at the time of the assessment, 29 Martin Square, but it is considered to be far too small for the type of development the applicant is seeking permission for, at just 65sqm. Whilst the NPPF encourages developers to be flexible on matters of format and scale, the size of this unit falls so far short of the size and potential format being broadly proposed by the applicants that it is not considered reasonable for the development to be delivered here instead. There is no evidence before the Council that other suitable sites are available or might become available for the foreseeable future with Martin Square.

6.26 Nonetheless, as third party comments have also considered that such an assessment should include other local retail centres, the applicants sought to look for sites further afield. The letter from the applicant dated 29th April ref JPW1530 considered this matter:

“It has been suggested by Peacock and Smith [on behalf of Wm Morrison Supermarkets plc] that some centres further afield should have been considered and a search conducted for sites within the centres listed below:

- *Borough Green District Centre*
- *Kings Hill District Centre*
- *Martin Square/Larkfield District Centre*
- *Snodland District Centre*
- *West Malling District Centre*
- *Twisden Road, East Malling Local Centre*
- *Premier Parade, Aylesford Local Centre*
- *Woodlands Parade, Ditton Local Centre*
- *Little Market Row, Leybourne Local Centre*

Peacock and Smith, however, have had no regard to the operational characteristics of LADs [Limited Assortment Discount] which serve as local neighbourhood stores for much smaller catchments than mainstream retailers such as Tesco. Notwithstanding and on a without prejudice basis I have looked at some of these additional centres. In respect of Ditton the extent of the catchment that Lidl expect their proposed store at Ditton will serve is shown on the enclosed Drawing No. JPW1530-002. This shows that the following centres fall outside the 5-minute drive time catchment and have therefore been discounted from our further assessment:

- *Borough Green District Centre*
- *Kings Hill District Centre*
- *Snodland District Centre*
- *West Malling District Centre*

In respect of the remaining local centres, all of which consist of just a local parade of shops, a search has confirmed that there are no suitable and available sites within any of these centres that could accommodate the proposed store."

- 6.27 Therefore, although many of these other centres are in a wider catchment area than the intended broad location of the proposed development, there is still no suitable and available site within the main retail centres of these towns.
- 6.28 However, following further consultation carried out in June, Morrison's agents have subsequently pointed to two sites which they say should be considered as sequential preferable to the proposed site. It is therefore considered necessary to consider whether these sites are sequentially preferable for this broad type of A1 development.
- 6.29 The first site is located at the nearby South Aylesford Retail Park, defined as Quarry Wood under policy R1 of the DLA DPD. Within policy R1, this area is an "Out-of-Centre Retail Facilities", as opposed to a "District Centre" like Martin Square. The site in question sits outside of the "out of centre" designation but is adjacent to it. It was granted planning permission by the Council in 2019 under reference 19/00979/FL for "*Erection of new retail units, a "pod" building for retail and cafe restaurant purposes, a new area of public realm along with access, car parking, servicing facilities, landscaping and associated works*". This included the erection of new Class A1 retail units up to 4,877sqm, across three individual units. A1 food retail is restricted by condition 7 of that planning permission to a total of 1,626sqm of sales area. Purely in terms of the quantity of A1 retail floor space, the consented scheme is broadly comparable to the type of development being sought at the London Road site.
- 6.30 However, the question is whether the site is sequentially preferable for A1 development, such that permission should be refused for this scheme and the development directed to the Quarry Wood site instead, in order to support the vitality of that shopping area through linked trips.
- 6.31 But the suggestion by Morrison's that this site is sequentially preferable is flawed, and this is because of the position of Quarry Wood in the defined retail hierarchy. Policy R1 is very clear that Quarry Wood is an out of centre retail location. Conversely, Martin Square sits at the top of the hierarchy as a district centre. National policy and CP22 are clear that edge of centre sites are preferable to out of centre sites. Given that the London Road site is also well connected to Martin Square, it is considered that it is sequentially preferable to the Quarry Wood site, which sits lower down in the retail hierarchy. Accordingly the site suggested by Morrison's is considered to be less sequentially preferable and is therefore discounted.
- 6.32 The second site is an area of land adjacent to the Grade II* Listed Wealden Hall pub. Although mostly within the defined retail area of Martin Square, the site is occupied by a carwash and car parking for the pub. There is no consent for A1

development on the site, and there is no indication that it is available for such development. Any proposal would inevitably be considerably constrained by the proximity of the Listed building and it is unlikely that an A1 store of such scale, even with reasonable flexibility, could be granted permission here without significant harm to the setting of the Listed building. Accordingly this site is considered to be neither suitable nor available for the proposed development. This concludes the sequential assessment of any alternative sites within a reasonable area of search, which has considered nearby retail centres across the hierarchy in and around the Ditton/Larkfield area.

- 6.33 The extent of the area of search is considered to be a matter of judgement for the decision maker and, whilst national policy advocates a degree of flexibility in terms of broad scale and format with the sequential assessment, it is not considered reasonable to continue to expand the area of search as suggested by objectors to the point where it would more or less become a Borough wide assessment of any other land that could accommodate this A1 development. Although not specifically defined in national policy, as a matter of judgement there has to be a reasonable limit to the area of search otherwise prospective retail developers would be forced to consider all sites across an infinitely wide area, which would frustrate the fair application of the sequential test.
- 6.34 There is no evidence before the Council that the sequential assessment is flawed. Objectors were only able to point to two other potential sites, neither of which are considered sequentially preferable. As there are no sequentially preferable or suitable or available sites within the centre or even other nearby centres, in accordance with policy CP22 and paragraphs 85 – 87 of the NPPF, the next area of search is edge of centre locations, preferably those that are well connected.
- 6.35 The proposed site is roughly 80m from the edge of the defined boundary of Martin Square, well within the definition set out in the NPPF glossary for edge of centre retail sites (which sets an upper limit of 300m from the boundary). It is also well connected to the primary shopping area which can be reached in just a few minutes' walk from the site. The proposed pedestrian crossing would also help improve connections between the retail centre and the new store. It is considered that there remains good potential for linked shopping trips, especially with the expanded parking facilities proposed, and this has already been alluded to by some third-party comments.
- 6.36 It is therefore considered that the location of the proposed new retail store has passed the sequential tests set out under policy CP22 and paragraphs 85, 86 and 87 of the NPPF. As such there are no policy objections on the principle of a new A1 store at this location.

Retail Impact – whether an assessment is required:

- 6.37 Paragraphs 89 and 90 of the NPPF set out the circumstances in which a retail impact assessment (RIA) is required on retail development outside of a town

centre location. A number of competing retailers have objected to the scheme and consider that the applicant should be required to carry out a RIA in order to determine what the effects might be on Martin Square and surrounding retail centres.

- 6.38 However, it is not considered that there is any justifiable policy basis for requiring an RIA. The NPPF is clear that where no local floor space threshold is set (CP22 is silent in this regard) then the default threshold is 2,500sqm. The proposed store is just 1,674sqm, with a sales area of 1,069sqm, falling very far below the default threshold set out in the NPPF. In choosing this threshold, it is apparent that in most circumstances the Government does not consider retail stores with a floor space below this level to warrant a RIA, or the wording of this paragraph would plainly have reflected this. It is clear that developments below this threshold, particularly in the absence of a locally defined threshold, are highly unlikely to have an impact on the main town centre that would be significant enough to warrant consideration through a full RIA. There is no evidence that a significant adverse impact would arise with a development so far below the default floor space threshold, in an edge of centre location just 80m from the town centre boundary and with good connectivity.
- 6.39 Although the agents for Morrison's have suggested their store is operating below normal trading levels, no evidence to this effect has been supplied. Their concern that the proposed new A1 store would draw trade away from the retail centre is not evidenced and it would have been open to them to submit their own RIA to demonstrate this. In any event, given the good connections of the edge of centre site, it is considered that the development remains capable of being a complimentary retail use. Regardless of final operator, the overall size of the site restricts floor space, and it would not be possible to provide such a wide range of goods and services that all local needs could be met from this store. Therefore, once the development is complete it is considered that there remains good potential for linked trips with Martin Square as not all local retail need could be met solely by the proposed development.
- 6.40 Policy CP22 is clear that proposals which might harm the vitality or viability of an existing centre in terms of retail impact will not be permitted, although as noted previously this test is inconsistent with the requirements of the NPPF and should not be used as a basis to justify refusal. However, given the comparatively low floor space against the threshold for assessment under an RIA set out in national policy, and the good connectivity from the site to the retail centre, it is not considered that there is sufficient evidence that the proposal would result in significant adverse impacts to the vitality or viability of the existing centre in terms of retail impact.
- 6.41 Accordingly, it is not considered that there is any conflict with the requirements of paragraph 89 and 90 of the NPPF, and even where there is some limited conflict with policy CP22's stricter requirements, the weight that can be attributed to this

conflict is greatly and decisively reduced as a result of inconsistencies with the NPPF.

6.42 There is no policy basis for requiring a RIA and, in any event, there is insufficient evidence to suggest any significant adverse impact would occur on the vitality of Martin Square. “Significant adverse impact” is the test for refusal under paragraph 90 of the NPPF and represents a high threshold. The case that the development would have this effect on either existing, committed and planned public or private investment in the centre, or centres in the catchment area of the proposal is not made out. Neither has it been demonstrated that the town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment, would be significantly adversely impacted.

Highways and Parking:

6.43 When considering matters of parking and highways safety, it is first important to note that the site has an existing lawful use, i.e. as a car sales showroom with associated workshop. Such a use inevitably attracts significant levels of car movements (trips) from customers, staff, and deliveries (including HGVs associated with car stock deliveries for sale). These would all cease upon commencement of the development. It should also be noted that the site already has a lawful access point onto London Road. With this in mind, the policy context is set out as follows.

6.44 Paragraph 108 of the NPPF states that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

6.45 Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 110 goes on to state that within this context, applications for development should:

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment

area for bus or other public transport services, and appropriate facilities that encourage public transport use;

b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;

c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;

d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and

e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

6.46 Policy CP2 of the TMBCS advises that new development that is likely to generate a significant number of trips should:

(a) be well located relative to public transport, cycle and pedestrian routes and with good access to local service centres;

(b) minimise the need to travel through the implementation of Travel Plans and the provision or retention of local services and facilities;

(c) either provide or make use of, and if necessary enhance, a choice of transport modes, including public transport, cycling and walking;

(d) be compatible with the character and capacity of the highway network in terms of the volume and nature of traffic generated;

(e) provide for any necessary enhancements to the safety of the highway network and capacity of transport infrastructure whilst avoiding road improvements that significantly harm the natural or historic environment or the character of the area; and,

(f) ensure accessibility for all, including elderly people, people with disabilities and others with restricted mobility.

6.47 Policy SQ8 of the MDE DPD sets out that before proposals for development are permitted, they will need to demonstrate that any necessary transport infrastructure, the need for which arises wholly or substantially from the development, is in place or is certain to be provided. It goes on to state that development proposals will only be permitted where they would not significantly harm highway safety and where traffic generated by the development can adequately be served by the highway network.

- 6.48 The policy also sets out that development will not be permitted which involves either the construction of a new access or the increased use of an existing access onto the primary or secondary road network (as defined by the Highway Authority) where a significantly increased risk of crashes or traffic delays would result. No new accesses onto the motorway or trunk road network will be permitted. Development proposals should comply with parking standards which will be set out in a Supplementary Planning Document.
- 6.49 Where significant traffic effects on the highway network and/or the environment are identified, the development shall only be allowed with appropriate mitigation measures and these must be provided before the development is used or occupied. The aims of Policy SQ8 and CP2 in requiring safe and suitable access to and from the highway are consistent with the aims of the Framework in respect of these matters.
- 6.50 As set out at paragraph 5.18 of this report, Kent County Council Highways & Transportation, as the Council's statutory consultees on matters of Highways safety, have extensively reviewed the applicant's transport statement and supporting information. They explain that retail shopping is a discretionary activity regarding when it is undertaken. For an A1 shop, demand is largely fulfilled by a combination of passing or minor detour convenience shops, or on a more regular basis (such as weekly) by habitual convenience, determined from experience that suits individuals or families. Shopping is a consequence of a population base rather than being in itself a primary traffic generator such as housing or employment. When considered against the relevant test for traffic generation under paragraph 110 of the NPPF, that development should only be refused if residual cumulative impacts on the road network would be severe, KCC's view is that this high bar is not met. The development would not result in severe levels of traffic impact on the road network.
- 6.51 Furthermore in terms of road safety, they consider that providing the proposed pedestrian crossing is installed prior to occupation, plus the enhanced footway along Bradbourne Lane, there are no grounds to consider that an unacceptable highways safety impact would arise. This is in consideration of the extant use of the site and its associated vehicle and HGV movements, the improvements to pedestrian safety, and the crash injury records at this location. The pedestrian crossing would be secured by a s278 agreement with the highways authority and be installed and operational before the store opens.
- 6.52 In terms of parking, 75 spaces would be provided, including 6 dedicated disabled spaces and 4 for parent child parking. Six cycle hoops will be located close to the store. Two space (32 and 33) will be provided with electric vehicle charging points, with provision for this to be expanded in future to serve all spaces from 25 to 31.
- 6.53 KCC (H+T) have raised no objections to the level of parking provision. Initial comments from KCC (H+T) did suggested potentially higher levels of staff parking

might occur, but they have subsequently clarified their comments in light of further evidence from the applicant.

- 6.54 This is because a store of this size would typically be staffed only by 6 – 8 employees at any one time, so whilst a total of 40 staff may be employed at the store, this would be on a shift basis and not something that would ever occur at any one time. Even at busy times of the year staff levels of a store this size at any one time would be unlikely to exceed 10. The submitted travel plan would further encourage car sharing between employees (where safe to do so) and the use of bicycles and public transport when travelling to work. This would decrease the possibility of staff parking overspill on the adjacent road network, which would be expected to result in no more than 6 – 7 cars parking on nearby local roads during peak times.
- 6.55 Nonetheless the narrow width of Bradbourne Lane is fully noted and accordingly KCC (H+T) have requested that the applicant introduce measures for parking restrictions on the lane to ensure overspill parking does not impede traffic flow. This would be implemented by a Traffic Regulation Order (TRO). Furthermore the travel plan's implementation will be secured by condition and monitored, with the outcome reported back to the Council for consideration of its effectiveness at key intervals.
- 6.56 Accordingly, whilst third party comments are fully noted, there is no technical evidence before the Council that the tests for a refusal on highways grounds are met. In their response KCC naturally consider any existing traffic problems on the network and committed improvements to traffic flow. Providing that the proposed pedestrian crossing, footpath and on street parking restrictions are delivered before the store opens, it is considered that a reason for refusal on highways grounds could not be substantiated. As such, no objections are raised under paragraph 109 and 110 of the NPPF, or policy SQ8 of the MDEDPD and policy CP2 of the TMBCS.

Neighbouring amenity:

- 6.57 As a result of the sunken land levels of the site, the proposed building sits below the height of neighbouring residential properties. There is also some degree of separation from most neighbouring residents as a result of London Road and Bradbourne Lane. The properties that back onto the site do so at a much higher elevation. Accordingly, it is not considered that the development would have any unacceptable impact in terms of an overbearing or overshadowing effect, or loss of privacy.
- 6.58 In terms of noise impact on residents, the applicants have provided an updated noise impact assessment (NIA) to address initial concerns from the Council's environmental health team. The environmental health officer considers that the noise impact on residents will be acceptable, subject to deliveries and collections being completed by 21:30. This can be secured by condition.

- 6.59 In terms of light impact, the Council's environmental health officer has reviewed the proposed lightning scheme and is satisfied that no undue harm would arise to neighbouring amenity through light pollution arising from the site. The agreed scheme of lightning can be secured by condition to ensure this.
- 6.60 Subject to this, it is considered that the development would not have a harmful impact on neighbouring amenity by reason of an overbearing or overshadowing effect, loss of privacy, or as a result of noise or light pollution.

Character and appearance/landscaping:

- 6.61 Policy CP24 of the TMBCS requires development to be of a high quality and be well designed to respect the site and its surroundings in terms of its scale, layout, siting, character and appearance. Policy SQ1 of the MDE DPD advises that new development should protect, conserve and, where possible, enhance the character and local distinctiveness of the area including its setting in relation to the pattern of the settlement, roads and surrounding landscape.
- 6.62 These policies are broadly in conformity with those contained within the Framework which relate to quality of new developments, in particular paragraph 127 of the NPPF that requires proposals to be visually attractive as a result of good architecture, layout and appropriate and effective landscaping. Schemes should also be sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.
- 6.63 The existing site is of no particular architectural merit; the buildings are utilitarian in design and reflect the former commercial use. Almost all of the site is given over to hard surfacing where vehicles would have been parked. Some planting exists around the banks but it is organic rather than deliberate, and does not help to soften the appearance of the existing buildings.
- 6.64 The new building would occupy a large part of the back of the site, with parking and delivery/turning areas taking up most of the remaining space. Following discussions with officers, landscaping has been increased where possible with flower bed planters on the frontage and three trees within the car park to provide some softening. Given the limited size of the site and steep banks, this is considered to be all that can reasonably be accommodated.
- 6.65 In terms of the design of the building, the most active part of the frontage would be on the western elevation with the glass entrance, but the activity of customers moving back and forth between the car park would help expand this during most parts of the day. The design overall would largely reflect its operational requirements, but given the existing appearance of the site this is considered to still have a beneficial impact on the character and appearance of the area. The increased provision of landscaping would also improve the appearance of the site further.

6.66 Whilst some of the plans show proposed advertisement boards on the north elevation of the building, these are indicative and would require separate advertisement consent. At that time, the Council could consider whether the signage was appropriate and could ensure such adverts did not result in an over proliferation of signage on the site, to the detriment of character.

6.67 Overall, the removal of existing structures and provision of a bespoke designed building with increased landscaping provision is considered to improve the character and appearance of the site. This would comply with policy CP24 of the TMBCS, SQ1 of the MDEDPD and paragraph 127 of the NPPF.

Flooding and drainage:

6.68 Policy CP10 of the TMBCS seeks to ensure developments are safe from flooding as well as directing proposals to areas with a low risk of flooding in the first instance. This is consistent with the aims of the framework at paragraphs 155 – 165.

6.69 The site lies within a Flood Zone 1, indicating the lowest probability of flood risk. Details of drainage have been provided and reviewed by KCC (as Lead Local Flood Authority) and they are satisfied that the proposed method of surface water drainage disposal is acceptable. Conditions are recommended to ensure final details of the drainage scheme are provided before development commences. Furthermore no objections have been raised by the Environment Agency. Finally, Southern Water have confirmed that there is capacity to provide foul sewage disposal to service the proposed development and requested conditions.

6.70 Subject to conditions, there would be no increased risk of flooding as a result of the development and drainage measures are considered acceptable. Accordingly, the development would comply with policy CP10 of the TMBCs and paragraphs 155 – 165 of the NPPF.

Air quality:

6.71 Policy SQ4 of the MDEDPD sets out that development will only be permitted where all of the following criteria are met:

(a) the proposed use does not result in a significant deterioration of the air quality of the area, either individually or cumulatively with other proposals or existing uses in the vicinity;

(b) proposals would not result in the circumstances that would lead to the creation of a new Air Quality Management Area;

(c) proximity to existing potentially air polluting uses will not have a harmful effect on the proposed use; and

(d) there is no impact on the air quality of internationally, nationally and locally designated sites of nature conservation interest or appropriate mitigation is proposed to alleviate any such impact.

6.72 London Road and part of the frontage of the site falls within a designated Air Quality Management Area (AQMA). The applicants have submitted an Air Quality Assessment which concludes that any additional impact as a result of the proposed store is likely to be negligible. The report has been reviewed by the Council's Environmental Protection Officer for Air Quality who has raised no objections. Notwithstanding third party comments, there is no technical evidence before the Council to suggest otherwise or that the development would worsen air pollution within the AQMA. Accordingly no objections are raised under policy SQ4.

Protected species:

6.73 Paragraph 175 of the NPPF requires developments to not harm biodiversity or protected species. This is consistent with the aims of policy NE3 of the MDEDPD that seeks to avoid harm to biodiversity.

6.74 The site's former use as a car showroom and minimal areas of planting or landscape mean it is unlikely to be considered suitable for protected species habitats. A submitted Preliminary Ecology Assessment (PEA) confirms the site has very little ecological value. Whilst one building was noted as having moderate roosting suitability for bats, the site already has prior approval for the demolition of all buildings. If the demolition was undertaken under this process any bats on site would still be protected as part of wildlife legislation. In light of this fall-back position it is not considered necessary to conduct further surveys in the specific circumstances of this case, and the applicants are reminded of their obligations under this legislation. Overall no objections are raised under policy NE3 of the MDEDPD.

Other considerations:

6.75 The development would retain the site as a source of local employment and provide up to 40 jobs. This would accord with the general thrust of employment retention under policy CP21 and the NPPF's requirements to build a strong and competitive economy.

6.76 The site's former uses as a car workshop could give rise to potentially contaminated land. Both the Environment Agency and the Council's contaminated land officer has requested conditions to address this. Subject to conditions ensuring remediation the development would not be at risk from contamination.

Conclusions:

6.77 It is recognised that a development of this nature is contentious and the concerns of local residents regarding traffic and highways problems are fully noted.

However, there is no evidence that the policy tests set out in the development plan and national policy for a refusal on highways grounds would be met. There would also be a positive improvement in pedestrian safety with the provision of a new crossing and a footpath along Bradbourne Lane.

6.78 Additionally, notwithstanding the objections from local competing retailers, the site is sequentially favourable for new A1 retail development, being well connected to the defined retail centre of Martin Square and well within the threshold for an edge of centre site. There is good potential for linked trips from customers using both the new A1 store and other shops and services in the retail centre that cannot all be met on the site. No alternative sequentially preferable sites have been identified. Given the good connectivity of the site, and the amount of retail floor space falling very short of the national policy threshold for a retail impact assessment, it is considered that development would not have a significant adverse impact on the vitality and viability of nearby town centres.

6.79 In all other respects the development is policy compliant in terms of character and appearance, neighbouring amenity, flooding and protected species, and remediation of possible contaminated land. The development would restore an existing employment site into long term use and result in the creation of jobs. Overall, the scheme is considered to comply with the adopted development plan as a whole and with national policy, and is therefore recommended for approval.

7. Recommendation:

7.1 **Grant planning permission** in accordance with the following submitted details: Topographical Survey AD 117 G received 21.04.2020, Landscaping AD 118 D received 21.04.2020, Proposed Plans SD_700 D levels received 21.04.2020, Sections ST_701 B received 21.04.2020, Artist's Impression image of store received 21.04.2020, Travel Plan received 21.04.2020, Transport Assessment received 21.04.2020, Statement community involvement received 21.04.2020, Noise Assessment received 21.04.2020, Letter received 21.04.2020, Travel Plan appendices 1-11 received 21.04.2020, Location Plan AD 101 B received 21.04.2020, Site Layout AD 110 G received 21.04.2020, Proposed Elevations AD 114 C received 21.04.2020, Proposed Plans AD 115 F received 21.04.2020, Boundary Treatment AD 116 F received 21.04.2020, Topographical Survey 18082 U 01 01 REV A received 03.12.2019, Existing Site Plan AD 100 received 03.12.2019, Proposed Floor Plans AD 111 ground floor received 03.12.2019, Proposed Floor Plans AD 112 first floor received 03.12.2019, Other surface water technical note received 11.05.2020, Drainage Layout SF/LIDLIDITTON.10 P5 received 11.05.2020, Drawing SQ4S PV LIDL MAID P01 pv layout received 03.12.2019, Flood Risk Assessment and drainage strategy received 03.12.2019, Ecological Assessment received 03.12.2019, Details pv system received 03.12.2019, Air Quality Assessment received 03.12.2019, Environmental Assessment received 03.12.2019, Arboricultural Survey and tree survey received 03.12.2019, Desk Study Assessment parts 1 to 7I received 03.12.2019,

Other Additional technical note received 15.05.2020, Transport Assessment received 06.01.2020, Air Quality Assessment received 24.06.2020, subject to the following conditions:

Conditions:

Standard Conditions / neighbouring amenity

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

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

- 2 This decision refers to the red-edged site location plan, drawings numbered Topographical Survey AD 117 G received 21.04.2020, Landscaping AD 118 D received 21.04.2020, Proposed Plans SD_700 D levels received 21.04.2020, Sections ST_701 B received 21.04.2020, Artist's Impression image of store received 21.04.2020, Travel Plan received 21.04.2020, Transport Assessment received 21.04.2020, Statement community involvement received 21.04.2020, Noise Assessment received 21.04.2020, Letter received 21.04.2020, Travel Plan appendices 1-11 received 21.04.2020, Location Plan AD 101 B received 21.04.2020, Site Layout AD 110 G received 21.04.2020, Proposed Elevations AD 114 C received 21.04.2020, Proposed Plans AD 115 F received 21.04.2020, Boundary Treatment AD 116 F received 21.04.2020, Topographical Survey 18082 U 01 01 REV A received 03.12.2019, Existing Site Plan AD 100 received 03.12.2019, Proposed Floor Plans AD 111 ground floor received 03.12.2019, Proposed Floor Plans AD 112 first floor received 03.12.2019, Other surface water technical note received 11.05.2020, Drainage Layout SF/LIDL DITTON.10 P5 received 11.05.2020, Drawing SQ4S PV LIDL MAID P01 pv layout received 03.12.2019, Flood Risk Assessment and drainage strategy received 03.12.2019, Ecological Assessment received 03.12.2019, Details pv system received 03.12.2019, Air Quality Assessment received 03.12.2019, Environmental Assessment received 03.12.2019, Arboricultural Survey and tree survey received 03.12.2019, Desk Study Assessment parts 1 to 7I received 03.12.2019, Other Additional technical note received 15.05.2020, Transport Assessment received 06.01.2020, Air Quality Assessment received 24.06.2020. The development shall be carried out in accordance with these approved drawings. There shall be no variations from these approved drawings.

Reason: To ensure that the scheme proceeds as set out in the planning application and therefore remains in accordance with the Development Plan.

- 3 No above ground works shall take place until details of all materials to be used externally have been submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

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

- 4 The development hereby approved shall not be occupied until the areas shown on the submitted layout for a vehicle parking spaces, turning and access onto the highway has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to the reserved parking spaces.

Reason: To ensure that parking and access is provided safely and maintained in accordance with the Council's adopted standards.

- 5 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, 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. 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: In the interests of visual amenity.

- 6 The development shall be constructed at the level indicated on the drawing referenced AD 114 REV C dated 21.04.20.

Reason: To accord with the terms of the application and to protect the visual amenity of the area

- 7 No deliveries shall be made to the site outside of the hours of 07:00 – 21:30.

Reason: In the interests of local amenity.

- 8 Before the development hereby approved is occupied, all noise and lighting mitigation measures shall be installed in accordance with the recommendations of the submitted noise report dated 19 March 2020 and the proposed lighting layout reference DWG 01 dated 21 April 2020.

Reason: To safeguard future occupants from unacceptable noise and light pollution impacts.

- 9 The hours of opening shall be restricted to 08:00 – 22:00 Monday to Saturday and 10:00 – 17:00 on Sundays and Bank Holidays.

Reason: In the interests of local amenity.

Highways related conditions:

- 10 Prior to first occupation of the development hereby approved, improvements to the local highway network as indicated by drawing SCP/18437/SK06 shall have

been implemented via a s.278 Agreement with Kent County Council and retained in perpetuity.

Reason: In the interests of local amenity and highway safety.

- 11 Prior to the commencement of the development hereby approved, arrangements for the management of all demolition and construction works shall be submitted to and approved by the Local Planning Authority. The management arrangements to be submitted shall include (but not necessarily be limited to) the following:

- The days of the week and hours of the day when the demolition and construction works will be limited to and measures to ensure these are adhered to;
- Procedures for managing all traffic movements associated with the demolition and construction works including (but not limited to) the delivery of building materials to the site (including the times of the day when those deliveries will be permitted to take place and how/where materials will be offloaded into the site) and for the management of all other construction related traffic and measures to ensure these are adhered to; and
- The specific arrangements for the parking of contractor's vehicles within or around the site during construction and any external storage of materials or plant throughout the construction phase.

The development shall be undertaken in full compliance with the approved details.

Reason: In the interests of residential amenity and highway safety in accordance with policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007.

- 12 Prior to first occupation of the development hereby approved, the Electric Vehicle charging points shall be installed in accordance with the approved plans and retained thereafter. Spaces 25 to 31 inclusive (to the west of the proposed Electric Vehicle spaces) shall include underground ducting to enable easy potential future provision of further electrical charging stations.

Reason: To encourage the use of electric vehicles in the interests of mitigating climate change in accordance with paragraph 110(e) of the NPPF.

- 13 Prior to the opening of the use hereby approved, the submitted Travel Plan shall be implemented, regularly monitored and amended, if necessary, if targets identified in the Plan are not being met over a period of 5 years from the date the development is occupied. At the end of the first and third years of the life of the Travel Plan, the applicant must apply to the Local Planning Authority for approval of reports monitoring the effectiveness of the Travel Plan and setting out any changes you propose to make to the Plan to overcome any identified problems.

Reason: In the interests of local amenity and highway safety.

- 14 Prior to the commencement of development, save for any demolition activities, a Stage 1 Safety Audit and Designers Response of the proposed signalised crossing on the A20 shall be undertaken and submitted to the Local Planning Authority for approval.

Reason: In the interests of local amenity and highway safety

- 15 Prior to the commencement of development, save for any demolition activities, proposals for the extension of current on-street waiting and parking restrictions on the A20 and Bradbourne Lane within 200m of the application site shall be submitted to the Local Planning Authority for consultation. Any new traffic orders resulting from the consultation shall be carried out via this authority's 3rd party traffic regulation order process.

Reason: In the interests of local amenity and highway safety

- 16 The use of the development hereby permitted shall not commence until a Service Delivery Plan Delivery, Servicing and Waste Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Service Delivery Plan shall include details of the number, frequency and times of deliveries and collections from the premises and the noise impact. The use shall operate in accordance with the approved Service Delivery Plan.

Reason: In the interests of local amenity and highway safety.

Drainage conditions

- 17 Construction of the development shall not commence until details of the proposed means of surface water run off disposal in accordance with Part H3 of Building Regulations hierarchy as well as acceptable discharge points, rates and volumes have been agreed by the Lead Flood Authority, in consultation with Southern Water.

Reason: To ensure safe and suitable disposal of surface water.

- 18 Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.

Reason: To ensure safe and suitable disposal of surface water.

- 19 No development (except for demolition/site clearance) shall begin in any phase 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 upon the Technical Note produced by M3 Mayer Brown and drawing reference SF/LIDLITTON.10 (unless demonstrated not possible for reasons surrounding ground contamination). The detailed drainage submission shall also 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 without increase to flood risk on or off-site.

The drainage scheme shall also demonstrate (with reference to published guidance):

- that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details.

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. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

- 20 No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate the suitable modelled operation of the drainage system where the system constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework.

Contaminated Land

- 21 No development shall take place other than as required as part of any relevant approved site investigation, remediation or demolition 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 site 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 site 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 the development the historic underground fuel storage infrastructure shall be removed together with any associated hydrocarbon contamination. The Local Planning Authority should be given a minimum of two weeks written notification of the commencement of these works.

c) prior to the first occupation of the development the relevant approved remediation scheme shall be completed 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.

22 The effectiveness of the remediation scheme shall be verified in two phases.

a) The first phase will cover the removal of the fuel storage infrastructure and associated contamination and will be submitted prior to commencement of the development.

b) Following completion of the remainder of the approved remediation strategy, and prior to the first occupation of the development, a final verification report shall be submitted.

In each case, the verification report shall scientifically and technically demonstrate the effectiveness and completion of that phase of the remediation scheme at above and below ground level and shall be submitted for the information of the Local Planning Authority.

The reports shall be undertaken in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. Where it is identified that further remediation works are necessary, details

and a timetable of those works shall be submitted to the Local Planning Authority for written approval and shall be fully implemented as approved.

Thereafter, no works shall take place such as to prejudice the effectiveness of the approved scheme of remediation.

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

- 23 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site in line with paragraph 170 of the National Planning Policy Framework.

Archaeology

- 24 Prior to the commencement of development the applicant, or their agents or successors in title, will secure and implement:
1. archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
 2. further archaeological investigation, recording and reporting, determined by the results of the evaluation, in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

Informatives

- 1 The proposed development is within a road which has a formal street numbering scheme and it will be necessary for the Council to allocate postal address(es) to the new property/ies. To discuss the arrangements, you are invited to e-mail to addresses@tmbc.gov.uk.

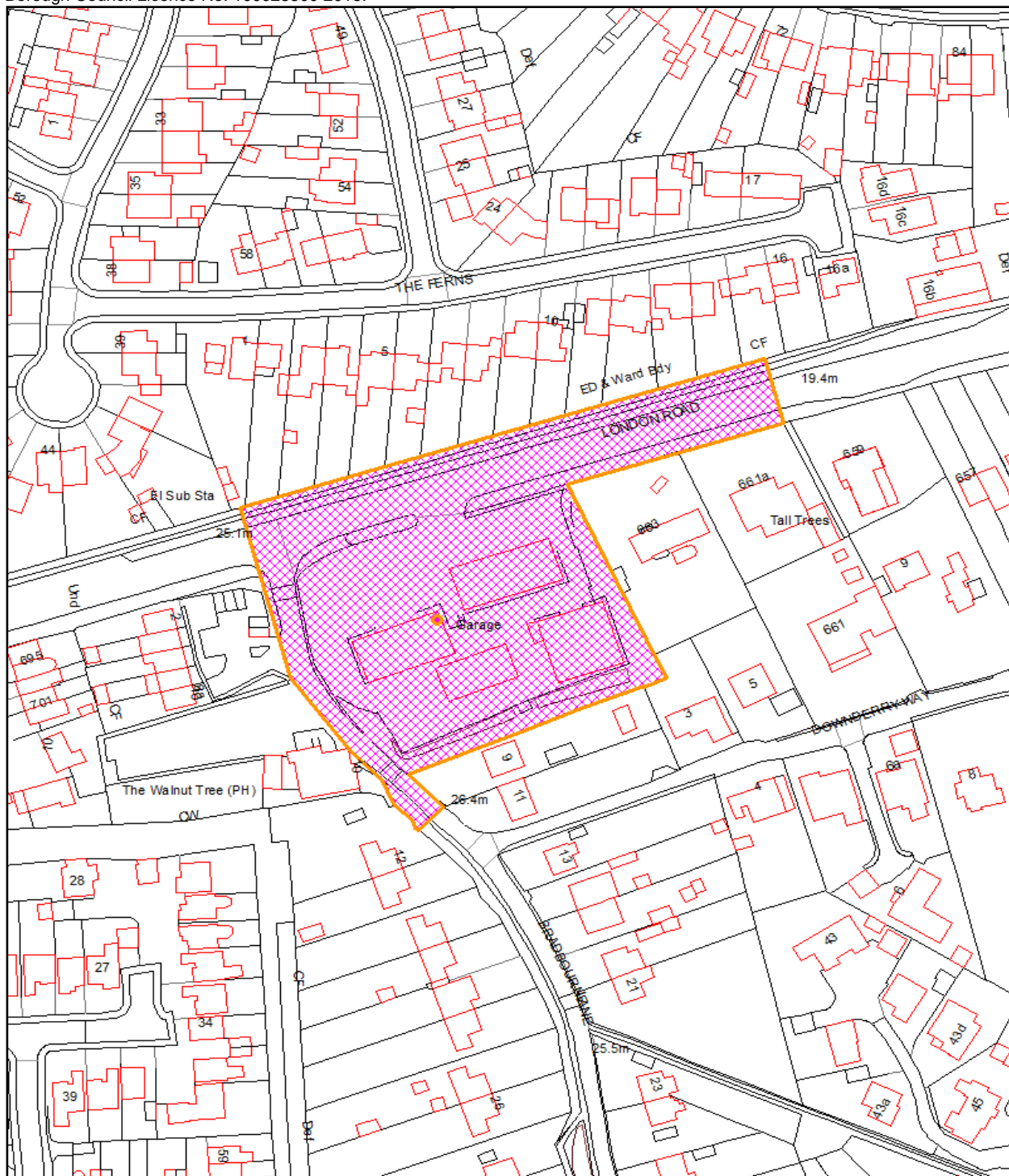
Contact: Adem Mehmet

TM/19/02841/FL

675 London Road Ditton Aylesford Kent ME20 6DF

Demolition of existing buildings and erection of Class A1 foodstore with associated parking, landscaping and access works and installation of pedestrian crossing on London Road

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**East Malling &
Larkfield**
East Malling

3 March 2020

TM/20/00483/FL

Proposal: Development of 2no. detached houses with associated gardens and parking
Location: Land Between 166 And 194 The Rocks Road East Malling West Malling Kent
Go to: [Recommendation](#)

1. Description:

- 1.1 This planning application seeks permission for the erection of two detached dwellings on land to the western side of The Rocks Road, on the outskirts of East Malling. The dwellings have been designed to be reflective of the edge of village/rural setting, deploying materials and forms that are generally characteristic of properties found in the surrounding area and the Conservation Area.
- 1.2 The dwellings sit on either side of the site, fronting the road, with oak framed garages located in the middle. Parking and landscaping would be provided with a central shared access point. Gardens are laid out for each dwelling to the rear with a communal front drive.

2. Reason for reporting to Committee:

- 2.1 At the request of Councillor Michelle Tatton in order to fully consider the impact on the highway, neighbour privacy, ecological impact, and effect on the street scene.

3. The Site:

- 3.1 The site is a parcel of land located between two dwellings on the southern outskirts of East Malling. It lies just outside of the defined settlement boundary of East Malling, and beyond the Conservation Area, in designated open countryside as set out under policy CP14. Behind the site are new build dwellings granted permission under reference 15/00547/FL. Although outside of the designated village boundary residential development now surrounds the site on all sides and the area is difficult to distinguish from the formally designated village limits. Accordingly the character of the site remains that of an edge of village location rather than purely rural. No other relevant designations exist.

4. Planning History (relevant):

TM/92/00247/OA refuse 10 December 1992

outline application for detached chalet style dwelling

TM/19/02663/FL Application Withdrawn 22 January 2020

Development of 3no. detached houses with associated gardens and parking

5. Consultees:

5.1 PC: 1. We note the withdrawal of the application for 3 homes on this site (19/02663/FL) and the submission of this new application.

2. Firstly, we wish to point out an error at paragraph 5 on the Application Form which refers to '3 no. detached homes'. Despite this, and an error at paragraph 2.10 of the Planning and Design & Access Statement which also refers to 3 family homes, clearly the application is for two dwellings.

3. Paragraph 1.5 of the Planning and Design & Access Statement also states the previous scheme was 'received favourably on all grounds except vehicular access...' This is incorrect if one considers the previous response from this Parish Council and local residents. There is no publicly available report from your officers as to the merits of the proposals.

4. Paragraph 2.5 of the Design & Access Statement reads (when speaking about the previously submitted scheme): 'The scheme continued to be supported in every respect except highways. That scheme was for three houses, which (sic) of which had driveway access. This was considered unacceptable by Kent Highways on grounds of highways safety, even though it is the same as many of the other houses in the street. Of the three houses, the only compliant one was the central one. The other two were too close to neighbouring boundary obstructions to be able to achieve the necessary visibility splays. The applicants and design team therefore withdrew that submission, in order to take stock and bring forward a compliant scheme.'

5. We have looked again at the information online relating to the previous application. There is no consultation response available from Kent Highways. There is vehicle volume and speed data available, which was obtained shortly before the application was withdrawn, but no Kent Highways response to it. That data does not form part of the papers submitted in support of this current application (we have checked and it is not on the website), and there are no plans or diagrams showing the visibility splays in each direction from the proposed entrance. The applicant should be required to provide this information as it is important to determining matters of highway safety.

6. We may need to provide further comments once this information has been received and/or once Kent Highways have provided their views. Meanwhile, below are our preliminary views:

7. Section 6 of the Application Form identifies the site as 'Undeveloped land.' We observe that for some years the land has been used as allotments – perhaps tied to the nearby row of cottages which have small gardens.

8. The application site is between two bends in the road at this point where The Rocks Road is only of single carriageway width. The proposal would introduce a new access. We are extremely surprised that the Planning and Design & Access Statement states that 'The public highway at this site is straight with excellent visibility' (paragraph 9.1). This is not accurate and we are concerned that adequate visibility splays are not achievable and, consequently, there will be an unacceptable impact on highway safety.

9. To the southeast further along The Rocks Road is Four Acres, a 1950s development of approximately 50 homes built on the site of the former isolation hospital. The Rocks Road is well used by residents living at Four Acres and their visitors, being their route to and from East Malling.

10. Between Four Acres and the bend at Paris Farm Barn (on the tight left hand bend to the north of the application site) there is no roadside footway. Public footpath MR105 from Four Acres to The Rocks Road provides an off-road walking route for Four Acres residents towards Paris Farm Barn but due to excessively muddy conditions this is not always useable and pedestrians have no alternative but to walk along the narrow winding road from Four Acres. There are no street lights on this section of The Rocks Road. There are riding stables locally, including at Paris Farm, and at Sweets Lane and therefore horses and equestrian traffic is not uncommon. In view of these factors we are disappointed that the section of The Rocks Road from Paris Farm Barn southeastwards and Sweets Lane were not included in the Quiet Lanes scheme that applies to lanes around Well Street as this lane bears many of the hallmarks of those Quiet Lanes and in our view warrants the same designation.

11. The previous application did not include any garage space and had only 2 spaces for each of the proposed dwellings. We note that as part of this latest proposal each property would have a 2 bay car barn and the parking area has been substantially increased. From that point of view parking appears to be adequate, with room for visitors/delivery vehicles to pull off road to stop. If the application is approved we would wish to see permitted development rights removed so that the car barns and parking area remain open and available for vehicles. This is important because of the nature of The Rocks Road at this point and lack of any reasonable opportunity for on-street parking. Vehicles do park at the entrance to the farmer's track by Paris Farm Barn but our understanding is that this is private land and cannot be relied upon for parking. We would not wish to see pressure increase on parking around the bend to the north as parking here makes visibility very difficult. And it would also be important from the point of view of highway safety that vehicles are able to turn within the site so that they do not back out onto The Rocks Road. How can this be assured?

12. We are concerned, however, that even a forward exit would be difficult as the road curves away and descends to the south of the site. Exiting vehicles would have no means of seeing oncoming traffic from Four Acres until they are partially in the road. It is our understanding that mirrors opposite driveways to aid visibility are not supported by Kent Highways.

13. The proposal is for 2 individually designed homes. Each will have 4 bedrooms. We remain of the view that the scale and mass of the properties is at odds with the existing pattern of development on The Rocks Road. Just to the north is the row of cottages and the Conservation Area with its Listed Buildings. The proposed dwellings do not respect the character of this area but introduce built development which is not in keeping and does not sit comfortably alongside existing dwellings. We are also concerned that the proposed street scene elevations are misleading. The land is not flat but rises from south to north and therefore the two properties will sit somewhat higher than the existing neighbouring property to the south. In any case, the height of the properties would dwarf the adjacent bungalow to the north.

14. We ask you to consider carefully the impact of loss of privacy on existing adjacent properties. We note that property 1, next to the bungalow, includes a balcony to the rear. This includes 1.8 metre obscured glass, presumably to both sides, but if this does not include obscured glass to the front of the balcony we question whether this will fully address privacy issues. The same applies to property 2 and the potential impact on the privacy of the existing dwelling to the south.

15. We are aware of the Appeal Decision T/APP/H2265/A/93/221601/P5 dated 15th June 1993 when the Inspector upheld TMBC's decision to refuse permission for outline permission for a single detached chalet style bungalow on the site. There have been no material changes since the time of the Appeal that mean that development on this site is less harmful or more suitable. The site remains in the countryside outside of the built environment of East Malling and is therefore contrary to Policy CP14 of the existing local plan. The site was put forward, presumably by the owner, during the Call for Sites exercise but was found to be unsuitable. The assessment recorded that the site is relatively unsustainable as it is remote from the confines of East Malling Village. Using the same distance calculator, we note the following distances from the site: East Malling Railway Station – 550 metres; nearest bus stops near the King & Queen – 780 metres; nearest Post Office/Convenience Store (Twisden Road) – 1600 metres; nearest supermarket – 2270 metres.

16. Importantly, the Inspector in 1993 noted that The Rocks Road at this point is '...a narrow country lane within which two cars could pass only with difficulty and where visibility is restricted by bends and roadside hedges.' He found that '...even one additional vehicular access would be an unacceptable threat to the safety of users of the road, unless visibility could be significantly improved beyond the

boundaries of the appeal site.' Even if this could be achieved the Inspector found that there would be an associated risk that the works required would further emphasise the presence of a development which he considered to be inappropriate for the location. The physical nature of the lane has not changed since 1993 although it must be accepted that in the last 25+ years the number of vehicles using the lane will have increased as a result of greater reliance on the motor transport, the increase in vehicle ownership/usage by residents in the vicinity, and the propensity for home deliveries. The applicants' own data submitted as part of the previous application shows that there are some 368 vehicle movements on weekdays between 7am and 6pm and no evidence has been submitted that adequate visibility splays could be provided. In the circumstances the proposal is wholly incompatible with the Inspector's decision.

17. We note that no ecological appraisal is submitted with this current application. We repeat the comments we made previously regarding the number of ponds that are within fairly close proximity to the site and which may be relevant to ecological matters. All measurements have been obtained using www.freemaptools.com and unless stated all measurements are from the application site:

a) There is a stream that rises 355metres away at Gilletts Lane forming a pond there. This stream flows northwards through residential gardens before emerging at the side of the road in The Rocks Road in the vicinity of Rocks Close. This stream continues northwards through the gardens in High Street before emerging again at Church Walk where it then passes under the road into the garden of Court Lodge where a further pond (635 metres). Onwards from here the stream flows through culverts and merges with the Ditton Stream before feeding into the lake at Bradbourne House (1200 metres).

b) Due west, 900 metres from the application site there is a pond at Springhill, Well Street, and 120 metres further west from here the Ditton Stream rises which flows northwards towards East Malling, creating a pond to the south of Weir Mill (990 metres), and to the north at the Horse Pond in Mill Street (1052 metres). The stream flows on from here to Clare Lake (1275 metres) before it is culverted, merging at New Road with the stream from Gilletts Lane and feeding into the lake at Bradbourne House.

c) There is also a roadside pond 475 metres to the southeast of the application site, just to the south of Four Acres.

d) A number of residents local to the site who responded to the previous consultation indicated that they have ponds in their gardens. In these circumstances we wonder whether amphibian surveys are required.

18. Regarding birds, given the proximity to East Malling Research and other agricultural land to the south we would expect a number of bird species to be present in the area including Fieldfare, Redwing and Waxwing. These are all well

known to be present at EMR. Little Owls have also been seen locally in The Rocks Road. If development on this site is approved we would ask for bird boxes.

- 5.2 KCC (H+T): Thank you for re-consulting me regarding this application. I am grateful for the work undertaken by the applicant, namely, undertaking a topographical survey, obtaining highway definition data and establishing a clearer picture of the interaction of this site with The Rocks Road. My comments are based on drawing 414/106 Rev. B. This drawing demonstrates 38m of visibility to approaching traffic from a set back distance of 2.4m from the site access. It is not considered that a highway reason for refusal, against paragraph 109 of the NPPF (dated February 2019), could be sustained. I write to confirm therefore, on behalf of this authority, that subject to conditions, I have no objection to this application.
- 5.3 Private Reps: 40+ site notice/1X/33R/6S on the following summarised grounds:

Objections:

- Strongly object
- Road is narrow and dangerous
- Plot is small
- Question how construction will take place
- Drawings are wrong
- Independent survey should take place
- Site was considered under 2017 call for sites and found unsuitable
- Houses out of character
- Overbearing
- Inaccurate description of the road
- Not appropriate scale for houses
- Road same as previously rejected application
- Architectural style not in line with village design statement
- Exterior walls should be ragstone
- Limited car parking
- Car ports should not be enclosed
- Houses too big
- Dominate the bungalow
- Similar development already rejected
- Drawing does not correctly show hedging, road boundary or telegraph pole
- Drawings are misleading, request independent review
- Shocked over lack of independent scrutiny
- Unacceptable to take drawings at face value
- Advice from KCC highways is not credible
- Hedges not owned by applicant or KCC Highways
- Ecology report does not acknowledge many nearby ponds
- Damage to wildlife
- Large vehicles have difficulties passing the site
- Blocking sunlight

- Conservation Area Green belt agricultural land (*DPHEH: the site is not Green Belt or within the Conservation Area*)
- Spoiling rural area with hideous houses in old village
- Bushes omitted from drawings
- Visibility cannot be achieved by telegraph pole
- No permission to use allotments to store materials
- Wrong buildings in wrong place
- Ruin entrance to East Malling
- 20mph speed limit should be moved to make roads safer
- Impact right to light
- Front of properties will be blocked by hedge
- Council must pay for any structural damage to row of old cottages
- Must be more ideal sites
- Not suitable for housing
- Increase parking pressure
- Area of natural beauty
- Hedgehog killed last year
- Overshadowing
- Concern over installation of utilities
- Visitor parking would be on congested layby
- Disruption during construction
- Garages must be prevented from being turned into additional accommodation
- Site was wildlife haven for many years
- Developer of adjacent site made slanderous accusations
- Behaviour will not make good neighbourly relations
- Quiet lane
- Loss of trees appalling
- Too many houses in the area
- Dangerous precedent for development in countryside
- Single carriageway road
- Pressure on local community
- Conflict with building regulations
- Loss of privacy
- No local amenities
- Ecology conclusions skewed by site clearance
- Concern over sheer bulk of houses
- Nearby ponds accommodate newts
- Bats fly over site
- No space for more homes
- Narrow lane will have to be dug up for gas and water
- Query where construction workers will park
- Roads already damaged
- Other developments nearby

Support:

- Stream of incorrect reports from neighbours
- KCC highways are qualified to look at documents
- Photos taken via trespass
- Not highways responsibility to pay for surveys
- Neighbours bushes blocking visibility
- Neighbours built over allotment land
- Better to see the site with a home than looking a mess
- Allotments empty and unused for number of years
- Not looked after
- Prefer couple of houses infilling gaps here
- Design looks good
- Can't understand why everyone saying dangerous
- Everyone slows down naturally because of the width
- Safer than faster roads
- No difference between these and the 3 million pound houses built near the oasts
- Make scrap land into two beautiful homes
- Change is good and needed
- Applicants are good people who live locally
- Fits conservation group criteria
- Note lobbying by objectors
- 166 has illegal extension
- People in glass houses spring to mind
- Houses are for local family
- Planning law changes

6. Determining Issues:

6.1 The site lies outside of the defined village limits of East Malling, in countryside designated under policy CP14. The key issues are therefore whether the development is acceptable in principle, the impact on the character and appearance of the area, neighbouring amenity, parking and highways, and protected species.

Principle of development / 1992 appeal decision / call for sites:

6.2 A number of third party comments have referred to the 1992 appeal decision which dismissed an application for residential development on the site. Reference is also made to the outcome of the 2017 call for sites process which found the site unsuitable for a local plan allocation. Since all these matters are relevant to whether residential development can be accepted on the site in principle, it is considered necessary to address them under this heading.

6.3 The site lies in designated countryside, where policy CP14 seeks to control new development to a closed list of exceptions, of which residential development is not

one. However, Tonbridge and Malling Borough Council cannot currently demonstrate a 5 year housing supply. In such circumstances paragraph 11 of the NPPF sets out that the presumption in favour of sustainable development applies and the provision of new housing (whatever the specific type or nature) carries significant weight. This presumption is only disengaged if the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. As a result of the tilted balance being engaged and the presumption in favour of new housing, conflict with policy CP14 is no longer sufficient justification to resist the delivery of housing on sites like this. This is because local plan policy designations for countryside areas do not fall within the definition of “policies in the NPPF that protect areas or assets of particular importance” and therefore the tilted balance and presumption cannot be disengaged on this basis.

- 6.4 Furthermore in broad policy terms the circumstances of the current application are very similar to a number of applications permitted on appeal across the borough, in edge of settlement locations close to existing dwellings. In light of this whilst the application is contrary to CP14 the site cannot be considered inherently unsustainable and because of the Council’s 5 year housing position the presumption in favour of development must apply.
- 6.5 In terms of the 1992 appeal, I note comments from the Parish Council and third parties that suggest that there have been no material changes since that decision. However, I cannot agree with this view. The adoption of the NPPF and the presumption in favour of sustainable development, the requirements to meet in full the objectively assessed housing need and maintaining a 5-year housing supply mark very significant changes in circumstances. Over 28 years have passed since that appeal decision and given the substantial change in the policy context, the application can and must be considered afresh.
- 6.6 As to the site being found unsuitable under the “call for sites” process as part of the local plan evidence base gathering, this is an assessment to consider if land is suitable for formal allocation in the new local plan. There are different criteria that are considered under this assessment, and sites must be able to accommodate a minimum level of development. The fact that a site was excluded from this process does not preclude an application being made and neither is it any form of justification in itself to prevent permission being granted, if the proposal is considered to be compliant when assessed against adopted and national planning policy.
- 6.7 Accordingly, neither conflict in principle with policy CP14, the 1992 appeal decision nor the outcome of the call for sites process provide sufficient justification to resist the principle of residential development on the site. The only means to disengage the tilted balance under paragraph 11 (d) (ii) of the NPPF is if the benefits of granting permission are significantly and demonstrably outweighed by any adverse impacts. Whether such impacts exist must now be considered further.

Character and appearance:

- 6.8 In terms of the policy context, Policy CP24 of the TMBCS requires development to be of a high quality and be well designed to respect the site and its surroundings in terms of its scale, layout, siting, character and appearance. Policy SQ1 of the MDE DPD advises that new development should protect, conserve and, where possible, enhance the character and local distinctiveness of the area including its setting in relation to the pattern of the settlement, roads and surrounding landscape.
- 6.9 These policies are broadly in conformity with those contained within the Framework which relate to quality of new developments, in particular paragraph 127 of the NPPF that requires proposals to be visually attractive as a result of good architecture, layout and appropriate and effective landscaping. Schemes should also be sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).
- 6.10 Paragraph 193 of the NPPF explains that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 6.11 The design of the dwellings has undergone further revisions to better reflect the edge of village setting. Traditional brick and tile is now proposed for each dwelling, with one plot utilising a half hipped roof, brick quoins and timber frame windows. The second plot has a crown roof and is more classical in design, this time utilising stone quoins and an ornate semi-circular front window. Two oak framed garages would sit between the dwellings.
- 6.12 The buildings would sit comfortably within the plot and maintain the semi informal building line along this part of the road. They would infill the gap between existing properties and are of a scale and form commiserate with neighbouring dwellings in this edge of village location. The current appearance of the site has no particular landscape designation and with an approved scheme of landscaping to be secured by condition, it is considered that the development would provide enhancement to the street scene.
- 6.13 The East Malling Conservation Area ends further to the north and there is intervening development in between. As such it is not considered that the site makes any positive contribution to its setting and neither would the development be harmful to its setting. The significance of the Conservation Area as a designated heritage asset would be preserved.

6.14 Accordingly no policy conflict with paragraph 193 of the NPPF, CP24 of the TMBCS or SQ1 of the MDEDPD is identified.

Neighbouring amenity:

6.15 Each building would not extend beyond the rear building line of adjacent properties. In particular plot 1 is set significantly far back from the adjacent dwelling at 166. House 2 is almost completely in line with the neighbouring properties rear elevation. A good level of separation would be provided between the boundaries and this is not dissimilar to the relationship between other nearby dwellings and their neighbours.

6.16 Accordingly it is not considered that the development would result in any harmful overbearing, overshadowing or loss of light. Neighbouring garden areas would remain largely unaffected regardless of the height and bulk of the new buildings.

6.17 In terms of privacy whilst rear terraces are proposed, privacy screens would be installed to prevent overlooking, and all side windows at first floor and above can be obscure glazed and non-opening by condition. As such, it is considered that the development would not have a harmful impact on neighbouring amenity.

Highway safety and parking provision:

6.18 Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 110 goes on to state that within this context, applications for development should:

a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;

b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;

c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;

d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and

e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

- 6.19 Policy SQ8 of the MDE DPD sets out that before proposals for development are permitted, they will need to demonstrate that any necessary transport infrastructure, the need for which arises wholly or substantially from the development, is in place or is certain to be provided. It goes on to state that development proposals will only be permitted where they would not significantly harm highway safety and where traffic generated by the development can adequately be served by the highway network.
- 6.20 Where significant traffic effects on the highway network and/or the environment are identified, the development shall only be allowed with appropriate mitigation measures and these must be provided before the development is used or occupied. The aims of Policy SQ8 in requiring safe and suitable access to and from the highway are consistent with the aims of the Framework in respect of these matters.
- 6.21 Kent County Council Highways and Transportation, as the Council's expert advisors on matters of highways safety, have reviewed the plans and supporting documents and consider that there is no basis for a refusal against the tests of the NPPF: "unacceptable" or "severe cumulative impacts". It is their view that suitable access and visibility splays can be provided, and whilst the width of the road and any pre-existing problems are fully noted, the vehicle movements attracted by two dwellings are not substantial. A construction management plan to be secured by condition can provide for safer highways conditions during the construction process.
- 6.22 Parking for vehicles would be provided in line with the Council's adopted standards plus extra spaces within the car ports. These can be retained for parking in perpetuity by condition. The site is also wide enough to accommodate some additional visitor parking when required. Whilst third party comments regarding parking are noted, the development would provide sufficient spaces in line with adopted standards.
- 6.23 It is also worth pointing out that whilst the 1992 appeal found the development unacceptable on highways grounds, the tests for a refusal on such matters under the NPPF sets a much higher bar: "unacceptable" or "severe cumulative impacts". KCC are satisfied that there are no unacceptable or severe impacts and accordingly the previous conclusions of the 28 year old appeal can be departed from. As such there is no evidential basis to consider that the highways impacts would be so significant as to justify a refusal. No policy conflict with paragraphs 109 and 110 of the NPPF or SQ8 of the MDEDPD is identified.

Ecology and protected species:

- 6.24 Paragraph 175 of the NPPF requires developments to not harm biodiversity or protected species. This is consistent with the aims of policy NE3 of the MDE DPD that seeks to avoid harm to biodiversity.

6.25 The applicants have provided a professionally prepared ecology survey which was unable to find evidence of protected species being present on the site. Whilst third party comments suggesting that the site was cleared prior to the survey are noted, this does not require planning permission and protected species are still protected under different legislative regimes from harm. The survey does not recommend further work is required and therefore notwithstanding third party comments there is no evidence that protected species would be harmed by the development. The approved landscaping scheme can also incorporate measures to improve biodiversity on the site and this will be secured by condition. Accordingly the development would comply with policy NE3 of the MDEDPD and paragraph 175 of the NPPF.

Other considerations:

6.26 A number of third party comments have referred to inaccuracies in the submitted plans and consider that an independent survey should be undertaken to verify the measurements. It is a matter for the applicants to ensure that plans are accurate and if the development is not completed in accordance with the approved plans then the applicants risk being in breach of condition and could potentially result in enforcement action. Conditions will ensure that the required visibility splays must be provided and maintained before the development is occupied.

6.27 It is recommended that permitted development rights are removed to preserve the design and prevent overdevelopment of the plot, particularly as the rear gardens are not extensive and further building here under permitted development could significantly reduce private amenity space. This can be secured by condition.

Conclusions and overall planning balance:

6.28 The development would provide two new homes towards local shortfall. There is no planning harm identified in terms of character and appearance, neighbouring amenity, parking and highways or protected species. No adverse impacts would occur that would significantly and demonstrably outweigh the benefits of providing two new homes. Accordingly, notwithstanding the location just outside of the settlement boundary, it is considered that in light of the Council's 5 year housing supply shortfall and with the tilted balance engaged, this is not sufficient grounds to justify a refusal. The application is therefore recommended for approval.

7. Recommendation:

7.1 **Grant Planning Permission** in accordance with the following submitted details:
Existing Site Layout 408/76 received 22.06.2020, Proposed Plans and Elevations 414/155 received 22.06.2020, Planning, Design And Access Statement received 22.06.2020, Site Layout 414/106 C Visibility Splays received 28.07.2020, Other Architectural Analysis received 28.07.2020, Block Plan 414/150A Proposed received 28.07.2020, Site Layout 414/151C received 28.07.2020, Proposed Plans and Elevations 414/152B House 1 received 28.07.2020,

Proposed Plans and Elevations 414/153B House 2 received 28.07.2020,
Proposed Elevations 414/154C received 28.07.2020, subject to the following
conditions:

Conditions:

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

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

- 2 No above ground works shall take place until details of all materials to be used externally have been submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

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

- 3 The windows on the first and second floor side elevations marked as obscure glazed shall be fitted with obscured glass and, apart from any top-hung light, shall be non-opening. This work shall be effected before the building is occupied and shall be retained thereafter.

Reason: To minimise the effect of overlooking onto adjoining property.

- 4 The development hereby approved shall not be occupied until the areas shown on the submitted layout for vehicle parking spaces, turning, visibility splays and access onto the highway has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no obstruction or permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access or visibility to the site and reserved parking spaces.

Reason: To ensure that parking and access is provided safely and maintained in accordance with the Council's adopted standards.

- 5 The garages shown on the submitted plans shall be kept available at all times for the parking of private motor vehicles and not enclosed.

Reason: To ensure that parking is provided and maintained in accordance with the Council's adopted standards.

- 6 Prior to the commencement of the development hereby approved, arrangements for the management of all demolition and construction works shall be submitted to and approved by the Local Planning Authority. The management arrangements to be submitted shall include (but not necessarily be limited to) the following:

- The days of the week and hours of the day when the demolition and construction works will be limited to and measures to ensure these are adhered to;
- Procedures for managing all traffic movements associated with the demolition and construction works including (but not limited to) the delivery of building materials to the site (including the times of the day when those deliveries will be permitted to take place and how/where materials will be offloaded into the site) and for the management of all other construction related traffic and measures to ensure these are adhered to; and
- The specific arrangements for the parking of contractor's vehicles within or around the site during construction and any external storage of materials or plant throughout the construction phase.

The development shall be undertaken in full compliance with the approved details.

Reason: In the interests of residential amenity and highway safety in accordance with policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007.

- 7 Before the development hereby approved is occupied a scheme of landscaping and boundary treatment shall be submitted to and approved by the Local Planning authority. 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, 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. 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.

- 8 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Class A, B, C, D or E of Part 1 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: In the interests of preserving the character and appearance of the area and amenity areas for future occupiers.

Informatives

- 1 A formal application for connection to the public sewerage system is required in order to service this development. More information is available on Southern Water's website via the following link <https://beta.southernwater.co.uk/infrastructure-charges>. The disposal of surface

water from this development should be in compliance with the following hierarchy of Part H3 of Building Regulations:

- a) An adequate soakaway or some other adequate infiltration system.
- b) A water course.
- c) Where neither of the above is practicable: a sewer.

The design of the proposed basements and on-site drainage system should consider the possibility of surcharging within the public sewerage system in order to provide the protection from the risk of flooding.

- 2 The proposed development is within a road which has a formal street numbering scheme and it will be necessary for the Council to allocate postal address(es) to the new property/ies. To discuss the arrangements, you are invited to e-mail to addresses@tmhc.gov.uk. To avoid difficulties for first occupiers, you are advised to do this as soon as possible and, in any event, not less than one month before the new properties are ready for occupation.
- 3 The applicant is strongly encouraged to consider opportunities for incorporating renewable energy technologies into the approved development wherever possible and for measures to support biodiversity within the construction of the buildings.

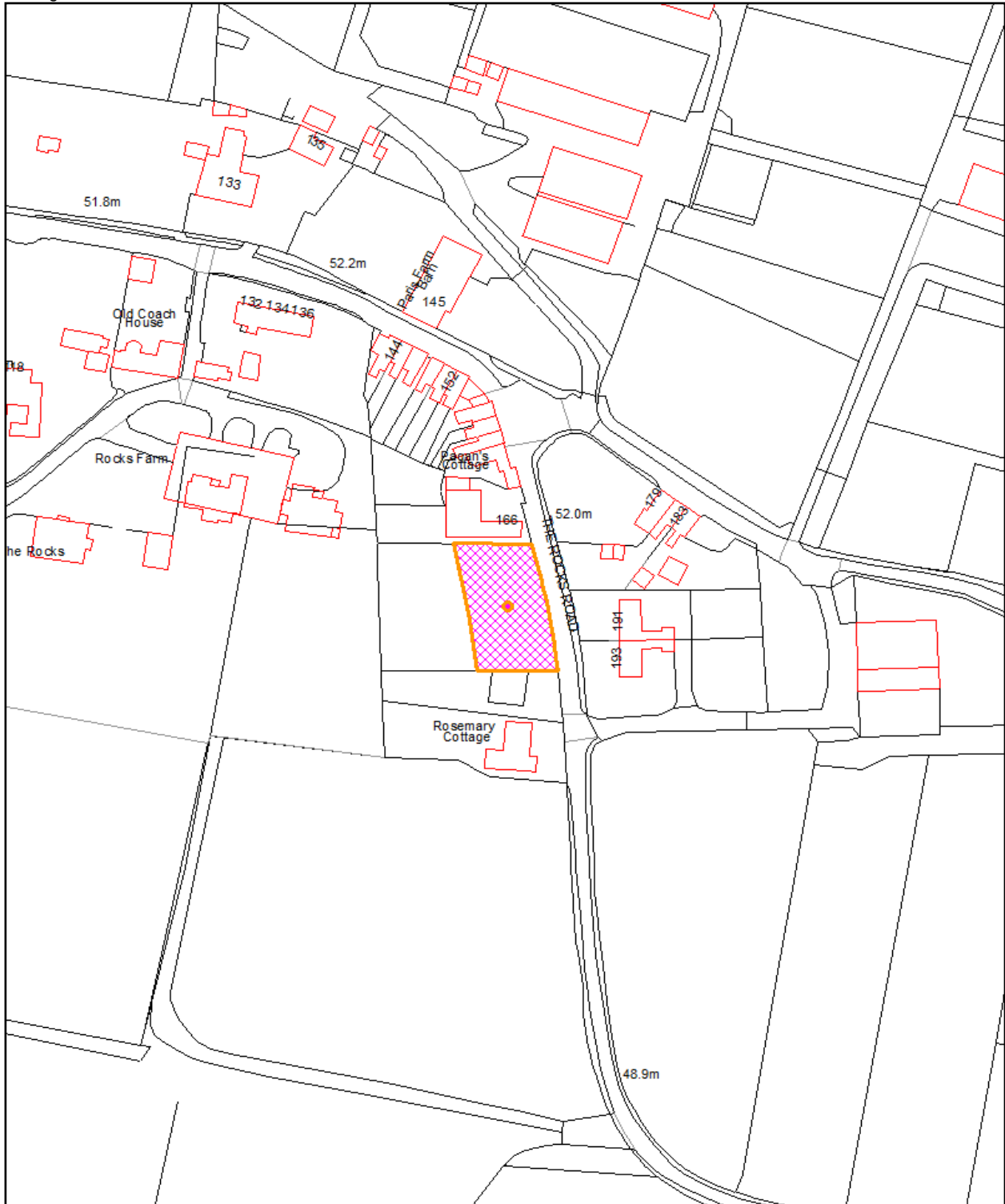
Contact: Adem Mehmet

TM/20/00483/FL

Land Between 166 And 194 The Rocks Road East Malling West Malling Kent

Development of 2no. detached houses with associated gardens and parking

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**East Malling &
Larkfield**
East Malling

1 August 2019

TM/19/01814/OA

Proposal: Outline Application: Erection of up to 250 new homes (40% affordable), new community building, provision of a new country park and other areas of public open spaces, areas of play, upgrade of existing footpaths, together with new vehicular access onto London Road and associated parking and landscaping

Location: Development Site Land West Of Winterfield Lane East Malling West Malling Kent

Go to: [Recommendation](#)

1. Description:

1.1 Determination of this application was deferred on 09 July 2020 to allow for legal services to provide the committee with a report setting out the risks involved should the recommendation of officers to grant planning permission subject to a legal agreement and conditions not be accepted, and planning permission refused.

1.2 This is in line with the Council's Constitution which sets out as follows:

“Where a Committee rejects a recommendation to approved, or is minded to refuse, an application which is recommended for approval by the Director of Planning, Housing and Environmental Health on grounds which the Director does not consider can be substantiated at appeal, the matter shall be deferred to the next meeting of the Committee to enable the Director of Central Services and Monitoring Officer to submit an independent report to the Committee on the possibility of costs being awarded against the Council. If the Director of Central Services and Monitoring Officer's report indicates that there is likely to be a significant risk of costs being awarded against the Borough Council and the Committee resolves to refuse the application that decision will be a recommendation only and the matter shall be submitted to Council for resolution.”

1.3 The July committee report and associated supplementary report can be found at Annexe 1. The report of the Director of Central Services and Monitoring Officer is contained within Part 2 of the agenda. This report should be read as a whole with both of those documents.

1.4 Members should be aware that since determination of the application was deferred, the applicant lodged an appeal to the Secretary of State via his Planning Inspectorate against non-determination of the application within the requisite time frame. This is due to be an Inquiry which would likely last for 5 days.

1.5 Accordingly, this report seeks a resolution from Members to establish what the Council's decision would have been had they remained in a position to determine

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

2. Consultees (received since deferral on 09 July 2020):

- 2.1 One additional representation received raising issues regarding matters of prematurity.

3. Determining Issues:

- 3.1 As set out above, the assessment that follows should be read in conjunction with the papers provided at Annexe 1 and the Part 2 report. This is intended to supplement the assessment and advice provided within those Annexes and does not replace or supersede it in any way. The specific matters drawn on below are intended to provide further advice on matters that formed the basis of the debate on 09 July and the grounds of refusal put forward that resulted in the deferral.

Outline planning permissions, reserved matters and details:

- 3.2 Members should be mindful of the fact that at this stage, outline planning permission is being sought. As such, it is necessary for the decision at this time to be establishing whether the nature and scale of the development is acceptable in light of the relevant policies contained within the adopted development plan and all relevant material planning considerations. It is appreciated that the Committee will wish any development to come forward in a high quality manner but this must be ensured through the formal assessment of reserved matters and details rather than through seeking to resist matters of principle at this stage.

Five year housing land supply position:

- 3.3 As Members are aware, the Council cannot currently demonstrate a five year housing land supply; at present only 2.6 years can be demonstrated which is a significant shortfall. The Inspector determining the Kings Hill appeals when considering a potential range at that time of 2.3 – 2.5 years gave the shortfall significant weight. Indeed, inspectors at the four most recent public inquiries in the Borough have drawn this conclusion. In my judgement there is little doubt that Members should attribute that level of weight to their decision making exercise in this instance
- 3.4 I appreciate that Members acknowledge our more recent record surrounding delivery and this is positive but would suggest that this a direct consequence of our continued efforts to correctly and properly apply the presumption in favour of sustainable development, as we are required to do in all cases, including this. It cannot follow that our recent record allows any flexibility in when we can apply the presumption required by the NPPF in this regard even where localised

circumstances or high levels of local opposition would suggest a preference for us to deviate from that position.

- 3.5 The provision of an additional 250 homes through the grant of this planning permission would change our housing land supply position from 2.6 to 2.9 years. According to our published position, the shortfall of housing supply as measured against the standard method requirement + a 5% buffer, is 2,145 homes.
- 3.6 The shortfall is very significant at this time and through our decision making – and the correct and proper application of the presumption in favour of sustainable development – we must continue to make decisions that seek to boost housing land supply. The contribution to our supply that the grant would make should be given significant weight.

Adopted countryside policies and coalescence of settlements:

- 3.7 Policy CP11 of the TMBCS states that development will be concentrated within the confines of the urban areas of:
- (a) Tonbridge (including Hilden Park);
 - (b) The Medway Gap (i.e. the major developed parts of Kings Hill, Leybourne, East Malling, Larkfield, Lunsford Park, Ditton and Aylesford south of the River Medway, Aylesford Forstal, and Snodland);
 - (c) The part of the Medway Towns urban area that lies within Tonbridge and Malling Borough (Walderslade).
- 3.8 It goes on to state that development adjoining these urban areas will only be proposed in the LDF, or otherwise permitted, where there is an identified need and there are no suitable sites within the urban areas. Priority will be afforded to the use of previously developed land. In the case of Tonbridge, priority will be afforded to the use of the safeguarded land identified under Policy CP4. The site in question does immediately adjoin the identified urban area and there is an identified need for housing.
- 3.9 Policy CP14 relates to development within the countryside and restricts development to certain specified types, none of which apply to the development under consideration.
- 3.10 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. On the face of a plain reading of these policies it would appear that there is a direct conflict with policies CP11 and CP14 stemming from the site location in the countryside by designation. However, Paragraph 11, footnote 7 of the Framework is clear where a Council cannot demonstrate a five year supply of deliverable housing sites such

relevant policies must be considered out-of-date. That position is qualified in that they are not to be ignored. It is for the decision-maker to determine the weight to be attributed to the conflict with those policies.

3.11 Policy CP6 states that development will not be proposed in the LDF or otherwise permitted within the countryside or on the edge of a settlement where it might unduly erode the separate identity of settlements or harm the setting or character of a settlement when viewed from the countryside or from adjoining settlements. It also sets out that any development that is considered acceptable in terms of this policy should maintain or enhance the setting and identity of the settlement, and in the countryside, be consistent with Policy CP14.

3.12 It has been suggested that the proposal would result in a perceived coalescence between settlements. West Malling is a town of a reasonable size and distinct in character, set apart in location from other settlements. East Malling, Leybourne and Larkfield lie to the east and north of West Malling and are separated by distance, intervening countryside and the significantly engineered A228. There is a distinct sense of leaving one built up area and travelling through green and leafy countryside, including characterising tree tunnelled country roads, towards West Malling. Whilst those travelling between the settlements would be aware of the new development, in respect of the perceived separation between the two settlements, the extent of the green predominantly undeveloped nature of the expansive countryside is sufficient to maintain the distinction between town and village. Therefore, I consider the break between settlements would be maintained both in actual and perceived terms.

Character and appearance:

3.13 It is noted that the application site is directly referred to in the Medway Gap CAA. For the avoidance of any doubt, the CAA is a material planning consideration which is intended to supplement adopted policies for assessing development proposals within the area. It does not contain any policies itself to be applied but rather seeks to identify locally distinctive features that define the character areas of the built up area of the Medway Gap.

3.14 The site is referred to in the description of Character Area A1.1 (London Road: Leybourne). The CAA sets out that this character area comprises a row of 1930s detached and semi-detached properties, a derelict former garage site and a wooded area along the northern side of the road. It goes on to note that to the south there is open farm land (the application site). What follows in the CAA is simply a description of the housing typologies and their appearance and how they have been modified over the years. The only further acknowledgement is that there are long panoramic views to the south over the surrounding open farm land and woodland, creating a spacious character.

3.15 Turning to the relevance this has to the assessment of the current planning application, policy SQ1 directly refers to the CAA, stating:

Proposals for development will be required to reflect the local distinctiveness, condition and sensitivity to change of the local character areas as defined in the Character Area Appraisals SPD.

All new development should protect, conserve and, where possible, enhance:

(a) the character and local distinctiveness of the area including its historical and architectural interest and the prevailing level of tranquillity;

(b) the distinctive setting of, and relationship between, the pattern of settlement, roads and the landscape, urban form and important views; and

(c) the biodiversity value of the area, including patterns of vegetation, property boundaries and water bodies.

3.16 This does not mean because the site is acknowledged as making some contribution to views from area A1.1 that no development can ever take place on the site. Moreover, it would be necessary for the detailed layout, scale and landscaping of the development to come forward in such a way that allowed for a sense of spaciousness to be retained where possible. Given the size of the site, the quantum of development proposed and the parameter plans provided at this stage, I consider that this would be achievable. I would also reiterate that private rights to a view are not a material planning consideration.

3.17 Furthermore, as set out in detail in the July report, the site does not benefit from any specific protection afforded by landscape designations. I appreciate that local people value the land for their own purposes but that in and of itself is not a material planning consideration. I am also mindful in this respect that at the previous meeting much discussion took place around the use of the land for recreational purposes and the enjoyment local people took from it. I would remind the committee that the site lies within private ownership and the rights of public access are limited to the routes of public footpaths.

Setting of listed buildings, Conservation Area and historic park and garden:

3.18 Clare House is a Grade I listed building located to the south-east of the application site. It is separated by significant distance and, importantly, intervening built development comprising Winterfield Lane itself, Winterfield Farm/Cottage and most notably Clarewood Drive which was constructed within the grounds of Clare House itself. As set out at paragraph 6.20 of the main report the site adjoins the Clare Park and Blacklands CA to the south-east but is separated by Winterfield Lane. This separation and also the form of the existing landscape, which consists of mature tree belts along Winterfield Lane and also the topography of the area means that the proposed development would not have an adverse impact on the character and setting of the CA. Similarly there are no other designated or non-designated heritage assets in the vicinity that would have their setting adversely

affected by the proposal, either by virtue of distance or the nature of the existing topography and the presence of such features as the railway line and the A228.

Loss of agricultural land:

- 3.19 It is accepted that the size of this site is considerably larger than the land at Lavenders Lane referred to in the July report. The discussion in that respect was not intended to make any direct comparisons between the two but rather to set out to Members important context as to how that matter was approach in a recent appeal decision.
- 3.20 The site is used as active arable farmland producing a variety of crops over the years. As an overall percentage the borough, according to the Kent Habitat Survey 2012, is made up of approximately 9.3% built and urban land with agriculture and horticulture together with improved grassland making up approximately 61.7%. As a proportion of this total the 18.5Ha site area would represent a loss of only 0.12% of the total available agricultural, horticultural and improved grassland. Whilst this still does represent a loss of land in production its relative proportion to the overall land available is very small and so could only be given very limited weight when assessed against the benefits of the development and the significant weight to be afforded to the provision of new housing in light of our current shortfall.

Draft local Plan:

- 3.21 In respect of the weight to be afforded to the draft local plan, in particular the proposal to incorporate this site into the extended Green Belt are addressed in full within Annexe 1 of this report and Part 2 report.
- 3.22 However, the matter as to whether the development of this site would be prejudicial to the draft policy as a whole (paragraph 49 (a)) is a matter of planning balance. Paragraph 49 sets out as follows:

However in the context of the Framework – and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:

a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and

b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

- 3.23 Draft policy LP11 sets out designated areas across the Borough, including the Green Belt, stating that national planning policy will apply to such areas. This is not limited to just the Green Belt but also applies to Special Areas of Conservation (SAC), Sites of Special Scientific Interest (SSSIs), Historic Parks & Gardens, Scheduled Ancient Monuments, Conservation Areas and areas at risk of flooding.
- 3.24 Members need to have in mind that the site in question in reality forms only a very small proportion of the overall Green Belt extension as proposed. This is demonstrated at Annex 2 to this report. On this basis, it remains my firm view that the development of this site for this scheme would not meet the circumstances set out in paragraph 49 (a) of the NPPF.

Conclusions:

- 3.25 My conclusions therefore remain as those set out in my previous report; that outline planning permission should be granted for this development. As set out at Section 1, the Council as Local Planning Authority is now no longer in a position to determine the application as an appeal has been lodged against non-determination. In such circumstances that APC3 agrees the recommendation that follows, the Planning Inspectorate will be notified of the resolution and officers will seek to negotiate withdrawal of the appeal with the developer. In all likelihood that will also involve the submission of an identical planning application to us for determination and paragraph 4.2 of the recommendation that follows seeks to appropriately deal with that eventuality.

4. Recommendation:

- 4.1 The Secretary of State (through his Inspector) and the applicant be advised that, had the Local Planning Authority been in a position to determine the application at this time, it would have **Granted Outline Planning Permission** on the basis of, and having regard to, the following:
- The following submitted details: Site Layout 6273-01G dated 10.12.2019, Master Plan LE-20 A dated 10.12.2019, Transport Statement Addendum dated 20.09.2019, Other technical note dated 10.10.2019, Proposed Plans ITL11317-GA-001 dated 01.08.2019, Location Plan 6273-03 dated 01.08.2019, Letter dated 01.08.2019, Statement BUILT HERITAGE dated 01.08.2019, Design and Access Statement dated 01.08.2019, Travel Plan dated 01.08.2019, Planning Statement dated 01.08.2019, Air Quality Assessment dated 01.08.2019, Archaeological Assessment dated 01.08.2019, Drainage Statement dated 01.08.2019, Ecological Assessment dated 01.08.2019, Flood Risk Assessment dated 01.08.2019, Visual Impact Assessment dated 01.08.2019, Noise Assessment dated 01.08.2019, Report Risk Assessment dated 01.08.2019, Statement community involvement dated 01.08.2019, Transport Statement dated 01.08.2019, Appraisal utilities dated 01.08.2019, Drawing ITL11317-GA-017 REV A dated 10.12.2019, Drawing ITL11317-GA-018 dated 10.12.2019, Drawing

ITL11317-GA-014 dated 10.12.2019, Transport Statement ITL11317-021B dated 10.12.2019, and subject to:-

- The applicant entering into a planning obligation with the Borough Council to provide on-site affordable housing and financial contributions towards public open space provision (parks and gardens and outdoor sports facilities) and enhancement and health care provision;
- The applicant entering into a planning obligation with Kent County Council to make financial contributions towards off-site highway junction improvements, public transport, the provision of education facilities, and community services

The section 106 agreement is now at an advanced stage of preparation and should be agreed in principle within 1 month and the legalities completed within 3 months of the committee resolution unless there are good reasons for the delay.

- The following conditions:

1. Approval of details of the layout and appearance of the development, the landscaping of the site, and the scale of the development (hereinafter called the "reserved matters") shall be obtained from the Local Planning Authority.

Reason: No such approval has been given.

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

Reason: In pursuance of Section 92(2) of the Town and Country Planning Act 1990.

3. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of one year from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: In pursuance of Section 92(2) of the Town and Country Planning Act 1990.

4. Applications for the approval of the reserved matters shall be in conformity with the indicative layout referenced 6273-01 Rev G and indicative landscape layout referenced LE-20 received 10 December 2019.

Reason: To ensure the scale of the development is compatible with the character of the site and its surroundings.

5. Prior to or as part of the first submission pursuant to condition 1, a scheme detailing the phasing of the construction of the development including the means

of access, layout of buildings, car parking and servicing arrangements, shall be submitted to and approved in writing by the Local Planning Authority. The development will be carried out in accordance with the details approved.

Reason: In the interests of highway safety and the amenity of the locality.

6. The details submitted in pursuance to Condition 1 shall be accompanied by a contoured site plan and full details of the slab levels and ridge levels at which the dwellings are to be constructed and development shall be carried out in accordance with the approved details.

Reason: To ensure the scale of the development is compatible with the character of the site and its surroundings.

7. The details submitted in pursuance of Condition 1 shall be accompanied by a scheme of landscaping and boundary treatment. The scheme shall be in conformity to the indicative layout referenced LE-20 received 10 December 2019 and follow the recommendations set out in the Arboricultural Implications Report received 01 August 2019. The scheme shall be approved in writing by the Local Planning Authority and shall be implemented by the approved date. Any trees or plants which within 10 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of visual amenity.

8. The details submitted in pursuance of Condition 1 shall show land, reserved for the parking and turning of vehicles. None of the dwellings hereby approved shall be occupied until these areas have been provided, surfaced and drained in accordance with the approved details. Thereafter no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown (other than the erection of a private garage or garages) or in such a position as to preclude vehicular access to reserved vehicle parking areas.

Reason: To ensure that adequate parking is provided, maintained and retained.

9. The details submitted pursuant to condition 1 shall show details of vehicle charging points. The charging points shall be approved by the Local Planning Authority and be installed prior to the first occupation of any dwelling, and thereafter maintained and retained in accordance with the approved details.

Reason: To encourage the use of electric vehicles in the interests of mitigating climate change in accordance with national objectives.

10. The details submitted in pursuance of Condition 1 shall show the proposed enhancements to the Public Rights of Way MR119 and MR120 through the site and their linkages to the surrounding highway network in conformity with the indicative layout referenced 6273-01 Rev G received 10 December 2019. None of the dwellings hereby approved shall be occupied until these routes have been provided, surfaced and drained in accordance with the approved details and shall be retained and maintained at all times thereafter.

Reason: To promote healthy lifestyles and social connectivity and to protect the visual amenity and character of the area.

11. None of the dwellings hereby approved shall be occupied until the access from A20 London Road as shown in principle on drawing number ITL11317-GA-014-Rev H received 27 February 2020 has been substantially completed.

Reason: The undertaking of the works without the proposed highways improvements is likely to result in unacceptable traffic conditions in the surrounding area.

12. Prior to the commencement of the development hereby approved, arrangements for the management of all construction works shall be submitted to and approved by the Local Planning Authority. The management arrangements to be submitted shall include (but not necessarily be limited to) the following:

- The days of the week and hours of the day when the construction works will be limited to and measures to ensure these are adhered to;
- Procedures for managing all traffic movements associated with the construction works including (but not limited to) the delivery of building materials to the site (including the times of the day when those deliveries will be permitted to take place and how/where materials will be offloaded into the site) and for the management of all other construction related traffic and measures to ensure these are adhered to;
- Procedures for notifying neighbouring properties as to the ongoing timetabling of works, the nature of the works and likely their duration, with particular reference to any such works which may give rise to noise and disturbance and any other regular liaison or information dissemination; and
- The specific arrangements for the parking of contractor's vehicles within or around the site during construction and any external storage of materials or plant throughout the construction phase.

The development shall be undertaken in full compliance with the approved details.

Reason: In the interests of residential amenity and highway safety.

13. The use shall not be commenced, nor any premises occupied until details of a scheme for the storage and screening of refuse has been submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before the development is occupied and shall be retained at all times thereafter.

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

14. The details submitted in pursuance of Condition 1 shall show the proposed areas of amenity, natural and formal open space, Neighbourhood Equipped Area of Play, a centrally located Local Equipped Area of Play and Local Areas of Play, along with a timetable for their implementation. The details shall be approved by the Local Planning Authority and be installed in accordance with the approved and maintained and retained at all times thereafter.

Reason: To ensure suitable levels of open space in the interests of health and wellbeing and to ensure compliance with Policy OS3 of the MDE DPD 2010.

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

Reason: To ensure that features of archaeological interest are properly examined and recorded and that due regard is had to the preservation in situ of important archaeological remains.

16. The details submitted in pursuance to Condition 1 shall provide details and samples of all materials to be used externally. These details shall be submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not harm the character of the countryside.

17. The details submitted in pursuance of Condition 1 shall incorporate the mitigation and enhancement measures detailed in the Ecological Assessment received 1 August 2019. The measures shall be submitted to and approved by the Local Planning Authority, and implemented in accordance with an agreed timetable and retained thereafter.

Reason: In the interests of nature conservation and biodiversity.

18. The details submitted in pursuance of Condition 1 shall incorporate the mitigation measures detailed in the Air Quality Assessment received 1 August 2019. The measures shall be submitted to and approved by the Local Planning Authority, and implemented in accordance with an agreed timetable and retained thereafter.

Reason: To ensure suitable levels of air quality

19. No above ground works, other than ground investigations work or site survey works, shall commence until a scheme to connect all plots to mains foul drainage has been submitted to, and approved in writing by the local planning authority. The occupation of the development hereby permitted is to be phased and implemented to align with the delivery by Southern Water of any required sewerage network reinforcement.

Reason: To ensure that adequate waste water network capacity is available to adequately drain the development.

20. No development shall take place other than as required as part of any relevant approved site 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 site 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 site 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 the development 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 Paragraph 170 of the NPPF 2019.

21. Following completion of the approved remediation strategy, and prior to the first occupation of the development, a relevant verification report that scientifically and technically demonstrates the effectiveness and completion of the remediation scheme at above and below ground level shall be submitted for the information of the Local Planning Authority. The report shall be undertaken in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. Where it is identified that further remediation works are necessary, details and a timetable of those works shall be submitted to the Local Planning Authority for written approval and shall be fully implemented as approved. Thereafter, no works shall take place such as to prejudice the effectiveness of the approved scheme of remediation.

Reason: In the interests of amenity, public safety and human health and in accordance with paragraph 170 of the NPPF 2019.

22. Development shall not begin in any phase 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 upon the DRAINAGE ASSESSMENT, ref C85673-R400A and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 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 (with reference to published guidance):

- that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details.

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.

23. No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate the suitable modelled operation of the drainage system where the system constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework.

24. No infiltration of surface water drainage into the ground is permitted other than with the written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants in line with paragraph 170 of the National Planning Policy Framework.

Informatives

1. The proposed development is within a road which has a formal street numbering scheme and it will be necessary for the Council to allocate postal address(es) to the new property/ies. To discuss the arrangements, you are invited to write to Street Naming & Numbering, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or to e-mail to addresses@tmhc.gov.uk. To avoid difficulties for first occupiers, you are advised to do this as soon as possible and, in any event, not less than one month before the new properties are ready for occupation.
2. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

3. During the demolition and construction phases, the hours of noisy working (including deliveries) likely to affect nearby properties should be restricted to Monday to Friday 07:30 hours - 18:30 hours; Saturday 08:00 to 13:00 hours; with no such work on Sundays or Public or Bank Holidays.
4. The CL:AIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice: excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution treated materials can be transferred between sites as part of a hub and cluster project some naturally occurring clean material can be transferred directly between sites.
5. Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.
6. The Environment Agency recommends that developers should refer to the Position statement on the Definition of Waste: Development Industry Code of Practice and the Environmental regulations page on GOV.UK.
7. No bonfires should be had at the site to avoid justified complaints from neighbours.
8. The network provided by Southern Water may require reinforcement. Accordingly Southern Water and the Developer will need to work together in order to ensure the delivery of the network reinforcement aligns with the proposed occupation of the development, as it will take time to design and deliver any such reinforcement.
9. It is recommended that all developers work with a telecommunication partner or subcontractor in the early stages of planning for any new development to make sure that Next Generation Access Broadband is a fundamental part of the project. Access to superfast broadband should be thought of as an essential utility for all new homes and businesses and given the same importance as water or power in any development design. Please liaise with a telecom provider to decide the appropriate solution for this development and the availability of the nearest connection point to high speed broadband. We understand that major telecommunication providers are now offering Next Generation Access Broadband connections free of charge to the developer. For advice on how to proceed with providing access to superfast broadband please contact broadband@kent.gov.uk
10. The applicant is strongly encouraged to consider opportunities for incorporating

renewable energy technologies and measures to support biodiversity into the approved development.

- 4.2 Furthermore, in the event that an identical planning application is submitted to the Local Planning Authority, determination of that application will be delegated to the Director of Planning, Housing and Environmental Health until 31 October 2020.

Contact: Robin Gilbert

Report from 9 July 2020

**East Malling And
Larkfield**
East Malling**1 August 2019****TM/19/01814/OA**

Proposal: Outline Application: Erection of up to 250 new homes (40% affordable), new community building, areas of public open spaces, areas of play, upgrade of existing footpaths, together with new vehicular access onto London Road and associated parking and landscaping

Location: Development Site Land West Of Winterfield Lane East Malling West Malling Kent

Go to: [Recommendation](#)

1. Description:

1.1 Outline planning permission, with all matters reserved for future consideration except for access, is sought for the following development:

- Provision of up to 250 new homes in a mix of housing ranging from 1 bedroom apartments to 4 bedroom houses;
- Provision of new affordable homes (40%) in a mix of rented and shared ownership;
- Provision of a new community building;
- The provision of approximately 11ha of open space, including a number of equipped play areas;
- Enhancements to the existing public rights of way that cross the site;
- New vehicular access point from the south side of A20 London Road. Access would be 7.5m wide and feature footways/cycleways to both sides and the provision for this to continue across the site frontage on the south side of the A20 London Road.
- Improvements to the London Road/Lucks Hill/Winterfield Lane junction to improve capacity;
- Landscaping enhancements and wildlife and habitat improvements.

1.2 As it is the only matter not reserved for future consideration, full details of the vehicular access have been provided for determination at this stage. The access is to be from the south side of the A20 London Road, measuring 7.5m wide with 3m wide footways/cycleways tied in. Visibility splays have been shown which will require existing vegetation to be cutback/modified. The existing lanes on the A20

London Road will be altered to create a right turn lane into the site with the road widened to the south to facilitate this.

- 1.3 The application has been amended from the original submission with the deletion of the proposed second access point and through route from Lucks Hill/Winterfield Lane. The sole vehicular access will therefore be from the A20 London Road. A pedestrian and cycleway access is indicated from Winterfield Lane/Lucks Hill which will also function as an emergency access point if ever required. It is on this basis that the application has been assessed and the recommendations made.
- 1.4 The submitted indicative layout plan shows the development being proposed each side of footpath MP119 with development set away from the A20 London Road by landscaping and open space with areas of open space to the east and western ends of the site. Landscaped corridors are indicated as being provided along the routes of the existing footways which would be enhanced as part of the works.
- 1.5 The application was intended to be reported to the Area 3 Planning Committee on 19 March. However, Members will be aware it was necessary to cancel that meeting. Since that time, officers have continued to work up the detail of the planning obligations to be contained within the legal agreement in particular, the contents of which are discussed where necessary in the assessment that follows.

2. Reason for reporting to Committee:

- 2.1 Given the balance to be struck between diverging policies and significant material planning considerations.

3. The Site:

- 3.1 The site has a total site area of 18.17 hectares and is located to the south of London Road, East Malling. The site falls outside of but is immediately adjacent to the defined settlement boundaries of Leybourne, Larkfield and East Malling which are in close proximity to the boundary of the site.
- 3.2 The site's south-eastern boundary is adjacent to the Clare House Conservation Area. The A228 dual carriageway and Lucks Hill road together with the existing farm and outbuildings form the site's southern boundary.
- 3.3 The site currently comprises two large fields used for arable farming with a gently sloping topography with a high point in the south-east corner, and low points along the northern and western boundaries. Whilst the site is within the countryside it is not subject to any specific landscape designations. The site is not within a Conservation Area nor does it contain any listed buildings. The site is within Flood Zone 1 where there is a low risk of flooding. There are two existing public rights of way that cross the site (MR119 and MR120), the latter of which provides a connection between Leybourne and West Malling Railway Station.

3.4 To the north of the site the area is characterised by predominantly two storey dwellings in a mix of detached and semi-detached building styles. To the north-east of the site is an existing contractor's yard with access onto Winterfield Lane. To the east side of Winterfield Lane is the Winterfield area of East Malling.

3.5 There is significant boundary vegetation, including well-established native trees and hedgerows, to the northern, eastern and western boundaries, as well as through the site, providing a good level of visual enclosure from the settlement edge. Existing tree groups, some of which are covered by TPO's, in the southern part of the site filter views across the site and strong boundary hedgerows along the southern boundary with Lucks Hill filter views onto the site from the south.

4. Planning History (relevant):

TM/19/01181/EAS screening opinion EIA 12 June 2019
C not required
Request for a Screening Opinion in accordance with Regulation 6 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017: Development for residential to provide a total of up to 275 new dwellings, of which 40% would be affordable

5. Consultees:

DPHEH: In the interests of completeness, and for ease of information, full representations received from East Malling and Larkfield Parish Council, West Malling Parish Council and Leybourne Parish Council, Highways England, KCC (H+T), the Environment Agency, KCC (LLFA), KCC (Economic Development) are reproduced in full in annexes 1,2,3,4,5,6,7 and 8 respectively. As such, these are not summarised within the report itself. All other representations received are summarised below as follows:

5.1 KCC (PROW): The proposals to MR119 and MR120 are encouraging and fall in line with what we would have suggested. These are already very well used routes and the application would only increase their usage.

5.1.1 There appear to be multiple locations where the roads are proposed to be built across the PROWS. At these locations I would like to see a pedestrian crossing to protect the safety of pedestrians and ensuring they continue to have priority

5.1.2 Whilst I am happy to see a 3m wide verge between the proposed roads and the PROWs, I have concerns about the trees being planted between them and how the roots may affect the surface of the path. I think it would be beneficial if the trees have some sort of root protection to prevent the roots from damaging or being damaged by tarmac from the path or road.

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- 5.1.3 Should the application go ahead and given that the paths are so well used, I feel it is crucial that whilst any building work is ongoing a suitable alternative route is provided for all the paths.
- 5.2 KCC (Heritage): The site lies in an area of potential associated with Iron Age and Roman activity although there is general multi-period potential for this site too. There are known Iron Age remains from along the A228 to the west and further Iron Age industrial remains recorded to the south west. The A20 is considered to possibly be a Roman road and there are indications of Roman settlement and a cemetery to the east towards Larkfield. Extensive archaeological remains may survive on this site and I therefore recommend a condition to secure and implement archaeological investigations to take place.
- 5.3 Southern Water: No objections subject to appropriate foul and surface water measures.
- 5.4 West Kent CCG: No objections subject to contribution of £210,600 towards the refurbishment, reconfiguration and/or extension at Thornhills Medical Practice; West Malling Group Practice and/or Wateringbury Surgery.
- 5.5 CPRE Kent: The proposed site is high quality agricultural land that has been farmed locally for generations.
- 5.5.1 Forty Acre Fields provides important agricultural separation for historic communities that have suffered development pressures to coalesce on all sides. Indeed the Fields provide one of the last bastions against the merging of the urban areas of Leybourne, Larkfield and East Malling, being the Parish in which the land is located. If developed it would further erode the space between those communities and the historic approach to West Malling via the Abbey. Forty Acres Fields is the most important gap left between the total urbanisation of those rural communities east of the A228.
- 5.5.2 The fields are criss-crossed by two well-used PROWS, MP119 & 120. Currently there is a very pleasant walk, once the A20 is crossed, along MP119 running through the fields to West Malling station. These proposals will maintain the footpaths by 'upgrading' the surface to hard standing, thus urbanising the approach to the station and degrading the setting of the PROWS by significant additional housing.
- 5.5.3 The area is to become Green Belt in the emerging Local Plan, in recognition of the importance of the gap that these fields provide. CPRE asks all relevant decision makers, LPA Officer or Planning Inspector, to give weight to this emerging policy.
- 5.5.4 It is noted that Kent Highways have now withdrawn their objection to the proposal in the light of proposed contributions to junction improvements. However, given that the emerging Local Plan is providing sufficient housing in other parts of the borough and these far more significant developments will have unpredictable

highway impacts on the primary road network, then additional and unneeded housing will cause additional stress to an already fractious road network that is prone to capacity queuing at many junctions in the area.

5.5.5 CPRE, Tonbridge and Malling District, therefore strongly object to this proposal for the above listed reasoning.

5.6 Natural England: No comments subject to standing advice.

5.7 British Horse Society: I note with interest the intention to “upgrade” the footpath within the development site “pending discussions with PROW Officer” and ask that these upgrades are made to bridleways (or ideally restricted byways) which would automatically include pedestrians and cyclists but would also allow equestrians access to the same provision. It would be useful for equestrians to be permitted to use the emergency route on to Winterfield Lane along with cyclists and pedestrians.

5.7.1 There is an ideal opportunity with this development to provide a ‘behind the hedge’ equestrian route linking footpath MR120 at its eastern end connection with Winterfield Lane to footpath MR119 at its northern end connection with London Road and/or a connection to the western side of the development providing a circular route from the southern end of MR119 at its junction with Lucks Hill to its northern end at the A20. To provide both of these would produce a walking (running), cycling and equestrian loop of approximately 2km which would be a fantastic asset for both the residents of the development and other local users.

5.7.2 If these provisions are made, it will go some way towards mitigating the inevitable additional traffic which would make use of the quieter “rural” lanes surrounding the site. The current situation (before any housing provided as part of the new Local Plan, or this application, is built) is that these local rural lanes are used regularly as “rat runs” when traffic spills off the M20 at Wrotham due to congestion, onto the A20 and then on to surrounding lanes such as Sandy Lane, Norman Lane, Lucks Hill and Winterfield Lane to avoid sitting in queues on the A20. Providing some respite from this traffic would be of benefit to the equestrians in the immediate area (East Malling, West Malling, Leybourne and Ryarsh) who number in their hundreds if not thousands.

5.7.3 Finally, a range of evidence indicates that the vast majority (90 percent plus) of horse riders are female and more than a third (37 percent) of the female riders [who took part in a survey] are above 45 years of age. Horse riding is especially well placed to play a valuable role in initiatives to encourage increased physical activity amongst women of all ages. As a popular sport in the borough therefore, providing these opportunities for equestrianism is to provide a significant benefit to the health and wellbeing of a sector of the local community who would otherwise be sedentary.

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- 5.7.4 The BHS would be very willing to work with the Council and the applicant in making this provision.
- 5.8 Kent Fire and Rescue: Means of access are considered satisfactory.
- 5.9 Kent Police: Note that the pedestrian access path to Winterfield Lane will be protected by a removable bollard. Whilst the proposed bollard may deter/prevent vehicle misuse, legitimate cyclists and potentially motorcyclists using the route unofficially, may be at risk if existing the cycleway at any speed. With this in mind, we recommend that serious consideration be given to replacing the bollard with a radial kissing gate (or similar), which should be designed to allow authorised access for pedestrians, disability scooters/buggies and cyclists. A secured wide vehicle gate or gates should be installed to the side of the kissing gate, for emergency vehicle access. This gate(s) should be wide enough for a fire appliance (3.7m).
- 5.9.1 As an observation, the pull off area between the lane and the proposed bollard location may also attract fly tipping as fly tipped material is often evident in gateways and passing points around this location.
- 5.9.2 Applicants should work with local Designing out Crime Officers to address Crime Prevention through Environmental Design and ensuring Secured by Design security requirements at the detailed application phase.
- 5.10 East Malling Conservation Group: The group strongly object to this outline application for the following reasons:
- 5.10.1 The previous Local Plan, (or current), advises that these fields are specified as agricultural land; the new Local Plan (currently with the Inspectorate for approval), proposes that these field should remain as Green Field. This change recognises the importance of this land as part of the strategic gap between East and West Malling.
- 5.10.2 The proposal includes a road from London Road, through the development to Winterfield Lane, close to its junction with Chapman Way. This will create a “rat run” from the London Road to West Malling Station and also through the village of East Malling for destinations to the south (e.g. Tunbridge Wells and the transport terminals in Paddock Wood). This would not benefit West Malling, East Malling or the proposed new development in any way for the following reasons:-
1. This new road would encourage traffic to travel from London Road, along Chapman Way. This road has an entrance to a Primary Academy, a Community Centre and two nurseries. It is also well used by students from the local Secondary School. It already has speed humps and a school crossing patrol. Any increase in traffic would be detrimental.

2. Traffic could also travel south along Winterfield Lane to Couch Green then along Clare Lane where there are no pedestrian footways. Traffic could continue to Mill Street, (which also has limited pedestrian footways) and on in a southern direction towards Tunbridge Wells. This traffic would turn right along the High Street, Chapel Street and beyond. These narrow village streets already have traffic gridlock issues several times a day.

3. The road would also encourage through traffic into the new development endangering children.

4. If two entrances were required to service 250 houses then we would suggest that they both exit London Road thus removing the potential for through traffic from the new development and also the ancient village of East Malling.

5. Over the years we have been successful in stopping any vehicular link from Kings Hill and East Malling, this recognises similar “rat run” issues as detailed above.

6. This application would have an adverse impact on the setting and views in and out of a rural footpath. Many of our members have used the footpaths that cross the site for over twenty plus years and have enjoyed walking through the fields at various times of the year, enjoying the various birds and other wildlife along the way. To replace the traditional rural footpath with a footway through a housing development with hard landscaping and street lighting would completely ruin the enjoyment of our countryside.

Taking the above into consideration we request that the outline application is refused.

5.11 Private Reps: 65 + site + press notice/2X/299R/35S.

Objections are summarised as follows:

- Development contrary to both existing and proposed local plans
- Too much development already in the area.
- Roads continually congested
- Access is in a dangerous location
- Will exacerbate problems of pulling out of Pinewood Close opposite
- Infrastructure cannot cope with existing population let alone hundreds more people.
- Not in accordance with the emerging local plan

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- Local plan will provide 5 year housing land supply
 - Land is supposed to be Green Belt
 - Loss of agricultural land
 - Destroy open field
 - Should not build on greenfield sites when brownfield land such as Aylesford Newsprint are empty.
 - Impact on local wildlife
 - Increase in pollution
 - Open spaces will be ripe for Traveller incursions
 - Only people who want this development are greedy developers, landowners and public servants
 - Existing developments such as Holborough and Ashlyn Quarter not selling
 - Fundamentally alter the character of rural footpaths
 - Kent no longer the Garden of England
 - Council should stand by the Local Plan submission
 - Lead to urbanisation of a currently rural landscape.
 - Lead to coalescence between East Malling, Leybourne, Larkfield, Kings Hill and West Malling.
 - Lead to 'rat running' in the local roads
 - Lack of public transport
 - The public do not want more development
 - Loss of trees and hedgerows
 - Impact on air quality
 - Too much pressure for development in the north of the borough
 - Areas that need regeneration and empty homes should be brought back into use before agricultural land proposed to be green belt should be developed
 - Houses are not selling in the area so no need to build more

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- Type of houses proposed will not benefit those who need them most – young couples/families and single people
 - Improvement plans to the A20 are only that – widening and improvements not approved yet
 - Link road not viable
 - Parks and community buildings are just ways for developers to sweeten developments
 - Lead to increase in crime with isolated parks and 40% affordable housing
 - Affordable housing will not be 'affordable'
 - Do not need manufactured open space but need to retain the countryside
 - Footpaths do not need improving and should be left as rural paths
 - Area needs a doctors not a country park
 - No need for further community buildings
 - Loss of a site for ground nesting birds
 - Do not want to become part of one big Maidstone
 - Communities will no longer be self-sufficient as settlements outgrow their facilities
 - Remove the last green wedge in the area
 - Fields are the lungs of Larkfield and Leybourne
 - No need for affordable housing as population increase is only being supported by immigration
 - Not enough parking proposed for the community building
 - Not enough cycle paths proposed
 - Other developments have been refused due to air pollution
 - Site was a waste tip in Victorian times
 - Future generations should be able to enjoy this earth and younger generations should not have to live with the consequences of short sighted decisions

- Coronavirus lockdown has made such open spaces more valuable and to build on them would be vandalism.
- Site adjoins land that forms part of the heritage area of Clare Park

Comments in support are summarised as follows:

- Area needs affordable housing
- Development appears to be well planned with considerable open space
- Shortage of housing in West Malling and Larkfield
- The proposed occupant of the Community Building, Larkfield Community Church, are well respected in the community for the support they provide and would be an enhancement to the locality
- Church also supports numerous local groups from Guides to over 60s friendship groups
- Beneficial to have the managed open space for recreation
- Enhance footpath links to West Malling Station
- Bring road improvements for the wider community
- Plan shows consideration for residents by giving them space
- Type of development will help young onto the housing ladder

6. Determining Issues:

Principle of the development:

6.1 As Members are aware, the Council cannot currently demonstrate an up to date five year supply of housing when measured against its objectively assessed need (OAN). This means that the presumption in favour of sustainable development as set out at paragraph 11 of the NPPF (February 2019) must be applied. For decision taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of

particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

- 6.2 In undertaking this exercise, it must be recognised that the adopted development plan remains the starting point for the determination of any planning application (as required by s.38 (6) of the Planning and Compulsory Purchase Act 2004) and which is reiterated at paragraph 12 of the NPPF. The consequence of this in these circumstances must be an exercise to establish conformity between the development plan and the policies contained within the Framework as a whole.
- 6.3 Policies CP6, CP11 and CP14 are the most important to the determination of this application as they address matters of principle for development of this nature. However, it has been established through various recent appeal decisions that in the absence of a 5 year housing land supply they are out of date and the weight to be afforded to them is substantially diminished.
- 6.4 With regard to the application of the presumption in favour of sustainable development, regard must first be had to whether any restrictive policies within the Framework (paragraph 11 d (i), footnote 6) provide a clear reason for refusing the development proposed. In this case, none of the policies referred to in Footnote 6 of the NPPF apply to the site the subject of this application. As such, pursuant to paragraph 11(d) (ii) of the NPPF, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when the proposal is assessed against the policies in the Framework taken as a whole. It is on this basis that my assessment follows:

Locational characteristics and associated impacts:

- 6.5 Paragraph 79 of the NPPF states that “planning policies and decisions should avoid the development of isolated homes in the countryside”. Whilst the site is located within the designated countryside, it is located immediately adjacent to defined urban areas and cannot be reasonably said to be isolated in any way. The development would therefore meet the requirements of paragraph 79 of the NPPF.
- 6.6 The NPPF states at paragraph 7 that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 of the NPPF states that the planning system has three overarching objectives to achieving sustainable development, these being an economic objective, such as ensuring adequate land is available to support growth and enable the provision of infrastructure; a social objective, such as ensuring a sufficient number and range of homes can be provided to meet the needs of present and future generations as well as accessible services and open spaces; and an environmental objective,

ensuring that effective use is made of land, helping to improve biodiversity and protecting and enhancing the natural, built and historic environment.

- 6.7 It is considered that the location of the site and the type of development proposed would be considered sustainable development under paragraph 8 of the NPPF and this is set out in greater detail throughout this report as necessary.

Character and pattern of development and impact upon visual amenities:

- 6.8 Policy CP24 of the TMBCS requires development to be of a high quality and be well designed to respect the site and its surroundings in terms of its scale, layout, siting, character and appearance. Policy SQ1 of the MDE DPD advises that new development should protect, conserve and, where possible, enhance the character and local distinctiveness of the area including its setting in relation to the pattern of the settlement, roads and surrounding landscape. These policies are broadly in conformity with those contained within the Framework which relate to quality of new developments.
- 6.9 In particular, paragraph 127 seeks to ensure that development:-
- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
 - c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
 - d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
 - e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
 - f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 6.10 Furthermore, paragraph 130 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with

clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).

- 6.11 The application is supported by a detailed Landscape and Visual Impact Assessment (LVIA) that has studied the two separate aspects which are required to be considered when assessing the landscape and visual effects of a development. These are:
- Assessment of landscape effects – assessing the effects on the landscape as resource in its own right, and
 - Assessment of visual effects: assessing the effects on specific views and on the general visual amenity experienced by people.
- 6.12 With regard to Landscape effects such matters as landscape designations, the landscape quality, scenic quality, rarity, recreational value and perceptual aspects and associations should be considered.
- 6.13 The site is not the subject of any specific landscape designation. The quality is typical of other open land in the wider locality; open, gently undulating agricultural land which is enclosed by the urban areas of Leybourne, Larkfield and East Malling to the north and east and to the south west by the A228 West Malling Bypass. The site is of limited scenic quality and its most notable features are the hedgerows and trees that stand along the boundaries of the site and a number of mature trees dotted within the site, two groups of which are covered by TPOs. Consequently, the landscape of the site is not considered to be rare or contain rare features or characteristics.
- 6.14 There is no doubt that the proposed development would, by virtue of the fact that it is built development, alter the landscape and appearance of the site. The development would not though be considered to be harmful to the character and appearance of the wider area by virtue of the fact that it would be viewed as an addition to the existing urban area, and thus would be seen within this context and against a backdrop of long established and significant urban development.
- 6.15 The indicative site layout proposes the retention of the most significant features of the site (the existing boundary hedgerows and trees) with 11ha of open space designed into the development including green ways along the existing footpaths and areas of open space to the south west, east and north east. This will enhance the public access through the site as a whole. The existing boundary planting is to be supplemented with additional planting that can be secured by a landscaping condition. Given the desire to retain and enhance the existing planting it is

considered adequate to protect these features with a planning condition rather than with specific TPOs on additional trees that are not already covered.

- 6.16 The site is visible to those residential properties that have a view across the site on the north side of London Road. They will experience the greatest change in the landscape of the site as housing will be located to the south in a previously open area. However, as the majority of the existing vegetation is to be retained and also enhanced, it is considered that the overall impact of the development would be reduced lowering the overall impact on the landscape. Furthermore, Members will be aware that there are no private rights to a view in planning terms and therefore the fact that existing residents will see the new development is not, in and of itself, a material planning consideration.
- 6.17 Similarly existing residents living to the east of the site would not be adversely impacted by the proposed development as they would be separated from the development by the existing vegetation on the boundary and also the vegetation on the east side of Winterfield Lane. The indicative layout also shows the built envelope is to be set back from the eastern frontage of the site behind mature boundary screening. Any impact upon their perception of the landscape is likely to be minor.
- 6.18 Views into the site from the local highway network and footpaths around the site would be limited and filtered by the existing boundary treatments which are to be supplemented under the proposed development.
- 6.19 Views from the footpaths crossing the site would change the greatest; however to mitigate this impact the distance between the new homes either side of footpath MR120 would be approximately 25m. The distance between homes to either side MR119 which connects into the A20 London Road would be approximately 30m to allow long views through the site towards the open recreational area.
- 6.20 The site adjoins the Clare Park and Blacklands CA to the south-east but is separated by Winterfield Lane. This separation and also the form of the existing landscape in the area however means that the proposed development would not have an adverse impact on the character and setting of the CA. Similarly there are no designated or non-designated heritage assets in the vicinity that would have their setting adversely affected by the proposal, either by virtue of distance or the nature of the existing topography.
- 6.21 Paragraph 122 of the NPPF 2019 requires that planning policies and decisions should support development that makes efficient use of land, taking into account:
- a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;
 - b) local market conditions and viability;

- c) the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;
- d) the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and
- e) the importance of securing well-designed, attractive and healthy places.

- 6.22 Policy CP24 of the TMBCS 2007, which is set out at paragraph 6.8 of this report, accords with this paragraph, requiring development to respect the site and its surroundings through its scale, density, and character. Although much of the detail is reserved for future consideration, the indicative plans provided show that the proposed quantum of development on the site, within the parameters provided at this stage, would allow the development to come forward in a manner that would be broadly commensurate with the prevailing local character whilst still seeking to make use of the land available.
- 6.23 The new access and associated visibility splay would lead to changes to the A20 London Road frontage as a result of the removal of some of the existing vegetation but I do not consider the visual impact of this to be significant, in the context of the development as a whole.
- 6.24 Similarly, the indicative layout proposes a scheme that, due to the layout of the proposed development, would not have an adverse impact on the residential amenity of existing and proposed residents. I do appreciate that the experience of surrounding land for existing residents would change through the development of this site but this does not automatically render it unacceptable in planning terms. On receipt of the relevant reserved matters, further consideration of the detail would be given and public consultation undertaken as part of that.
- 6.25 In all these respects, I consider that the development would come forward in an acceptable manner that would accord with Policy CP24 of the TMBCS, Policy SQ1 of the MDE DPD and paragraphs 122, 127 and 130 of the NPPF.

Highway safety, capacity and parking provision:

- 6.26 Policy SQ8 of the MDE DPD sets out that before proposals for development are permitted, they will need to demonstrate that any necessary transport infrastructure, the need for which arises wholly or substantially from the development, is in place or is certain to be provided.
- 6.27 It goes on to state that development proposals will only be permitted where they would not significantly harm highway safety and where traffic generated by the development can adequately be served by the highway network.

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- 6.28 Development will not be permitted which involves either the construction of a new access or the increased use of an existing access onto the primary or secondary road network (as defined by the Highway Authority) where a significantly increased risk of crashes or traffic delays would result. No new accesses onto the motorway or trunk road network will be permitted.
- 6.29 Development proposals should comply with parking standards which will be set out in a Supplementary Planning Document.
- 6.30 Where significant traffic effects on the highway network and/or the environment are identified, the development shall only be allowed with appropriate mitigation measures and these must be provided before the development is used or occupied.
- 6.31 Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 110 goes on to state that, within this context, applications for development should:
- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
 - b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
 - c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;
 - d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and
 - e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.
- 6.32 Paragraph 111 then sets out that all developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.
- 6.33 A single vehicular access point is to be created to serve the development as a whole. This is to be from the south side of the A20 London Road approximately

160m to the west of the A20/Lunsford Lane junction and approximately 40m west of Pinewood Close. A secondary pedestrian and cycle access that would also serve as an emergency access is to be provided from Winterfield Lane/Lucks Hill. Details of the access with associated footpaths and splays have been provided on the submitted drawings and are as described in Section 1 of this report. A Transport Assessment has also been submitted.

- 6.34 Members will note from the various appendices that the Local Highway Authority (KCC H&T) and Highways England (responding in connection with potential impacts on the strategic network) do not raise objections to the scheme on the basis of the submitted modelling, which includes the results of the VISUM modelling undertaken in support of the emerging development strategy up to 2031. The modelling submitted with the application covered junctions from junction 4 of the M20 in the west to the A20/New Hythe Lane junction in the east and assessed the development against a number of scenarios. The resultant findings indicate that the development has the potential to lead to capacity issues, when taking into account all other committed development and draft local plan allocations, at the A20/Lunsford Lane/Winterfield Lane junction, the A20 London Road/Castle Way junction, A20/New Road junction and A20/New Hythe Lane junction. All other junctions would remain within capacity.
- 6.35 The highways impact of the development is proposed to be mitigated by a developer led scheme at the A20/Lunsford Lane/Winterfield Lane junction which consists of localised widening to increase capacity to an acceptable level. This widening would be to the southern side of the A20 to increase the westbound capacity at the Lunsford Lane/Winterfield Lane junction. This scheme is considered acceptable by KCC Highways and would be delivered through a S278 agreement prior to occupation and to ensure delivery would also be a requirement of the S106 legal agreement.
- 6.36 The proposed new access onto the site itself from the A20 would, as well as providing a means of access to the development, provide improvements to footways, cycleways and public rights of way through and fronting the site and also pedestrian refuges on the A20. The proposed site access junction has been included in all undertaken highway modelling work and is indicated as working well within capacity levels when assessed with all other committed and draft local plan developments.
- 6.37 The developer will make a contribution of £1547.62 per dwelling towards further highway improvements to enhance junction capacity along the A20 corridor from the A228 and Coldharbour roundabout. These contributions would be used towards KCC scoped and costed planned improvements at the A20 London Road/Castle Way junction, A20/New Road junction and A20/New Hythe Lane junctions. The developer will also make a contribution of £910 per dwelling towards bus service enhancements between the development and Maidstone Town Centre and West Malling Station to encourage sustainable transport,

ensuring that future residents of the development will have the ability to make use of alternative transport methods other than the private motor car. These obligations are all to come forward as part of a package to be contained within the section 106 legal agreement, the final drafting of which is to be completed between the parties.

- 6.38 Furthermore, a condition should be imposed on any permission granted requiring layout plans to provide for car parking at a level that is in accordance with the adopted residential parking standards (KHS IGN3). The condition would also ensure an appropriate level of parking for the proposed community building.
- 6.39 In light of the above and taking into account the comprehensive range of infrastructure improvements to be undertaken either by the developer or the local Highway Authority (with the necessary contributions from the developer) I am satisfied that the development would not result in an unacceptable impact on highway safety and the residual cumulative impacts on the road network would not be severe. It would therefore not conflict in any way with Policy SQ8 of the MDE DPD or paragraphs 109-111 of the NPPF.

Ecology and biodiversity:

- 6.40 Policy NE2 of the MDE DPD requires that the biodiversity of the Borough and in particular priority habitats, species and features, will be protected, conserved and enhanced.
- 6.41 Policy NE3 states that development that would adversely affect biodiversity or the value of wildlife habitats across the Borough will only be permitted if appropriate mitigation and/or compensation measures are provided which would result in overall enhancement. It goes on to state that proposals for development must make provision for the retention of the habitat and protection of its wildlife links. Opportunities to maximise the creation of new corridors and improve permeability and ecological conservation value will be sought.
- 6.42 Policy NE4 further sets out that the extent of tree cover and the hedgerow network should be maintained and enhanced. Provision should be made for the creation of new woodland and hedgerows, especially indigenous broad-leaved species, at appropriate locations to support and enhance the Green Infrastructure Network.
- 6.43 These policies broadly accord with the policies of the NPPF. In particular, paragraph 170 states that planning policies and decisions should contribute to and enhance the natural and local environment by (inter alia) protecting and enhancing sites of biodiversity value and minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 6.44 An Ecological Appraisal report has been submitted in support of the application. The report sets out that the site comprises an area of arable farmland surrounded

by roads to all sides and with residential development to the north and east. To the south and west lies farmland, pastoral land and parkland supporting mature hedgerows and small woodland areas. For these reasons, overall the site is considered to be of negligible intrinsic value in terms of wildlife supporting habitat.

- 6.45 Notwithstanding this, the appraisal goes on to acknowledge that the site supports an assemblage of foraging and commuting bats that is of importance at the county level, assemblages of birds and invertebrates that are of value at the site level. A single slow-worm was recorded during the targeted surveys, indicating a low population of slow-worm is present at the site that is of importance at the site level. Ground nesting birds are also present on the site.
- 6.46 It is noted that Natural England has not provided any substantive representations in response to our consultation but has directed us to their Standing Advice, which is common practice for sites of this nature. The standing advice does not specifically restrict development but sets out the procedure applicants should follow before and during a development. The standing advice has been followed in the submitted Ecological Appraisal which sets out appropriate mitigation measures. These can be controlled through planning condition.
- 6.47 Very minor residual, and therefore potentially cumulative, adverse effects remain in relation to ground nesting birds; however, mitigation measures will be put in place to avoid harm to nesting birds during the construction phase. The landscaping proposals, including approximately 11 hectares of open greenspace, will provide a net gain in resources for the majority of other ecological features and enhance ecological permeability across the site. The proposed management of the land will enable such measures to be put in place.
- 6.48 I am therefore satisfied that the development would have a net positive effect on habitats and biodiversity on the site through the provision of enhanced landscaping proposals which would be an overt benefit arising from the development. As such it is considered that the proposals will accord with all relevant national and local planning policy in relation to ecology including Policies NE1-NE4 of the TMBC Local Development Framework Core Strategy and the NPPF.
- 6.49 These matters can all be reasonably secured by planning condition.

Best and most versatile land:

- 6.50 Policy CP9 of the TMBCS states that development of the best and most versatile land (DEFRA Grades 1, 2 and 3a) will be not be proposed in the LDF unless there is an overriding need, and
- (a) there is no suitable site in a sustainable location on land of poorer agricultural quality; or

(b) alternative sites have greater value for their landscape, biodiversity, amenity, heritage or natural resources or are subject to other constraints such as flooding.

This is reflected by paragraph 170 (b) of the NPPF which sets out that planning policies and decisions should contribute to and enhance the natural and local environment by b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.

6.51 I am mindful that Policy CP9 relates to proposing sites for allocation within the LDF process rather than overtly setting out that it is intended to be applied for decision making purposes. When read against paragraph 170 (b) of the NPPF though there is a balance to be made when considering individual sites. It is clear from the preceding sections of this report that there is a clear need for additional housing within the Borough, and the development would make a contribution to redressing the existing shortfall.

6.52 The majority of the site is classified as grade 2, which is typical of the agricultural land in the wider area. The site is contained on three sides by roads and, whilst it is recognised that best and most versatile agricultural land does have some economic benefits alongside its primary purpose of food production, it is considered that the loss of this comparatively small pocket of agricultural land would have little tangible impact on agricultural yield or profitability in broader terms. This judgement is supported by the view of the Inspector in the recent Lavenders Road appeal decision, which Members will be aware of, where the Inspector concluded that the loss of best and most versatile land in that instance was not an overriding factor supporting the dismissal of the appeal in light of the Council's five year housing land supply, which since that decision was made has further reduced. It is therefore considered that whilst the development would result in the loss of actively farmed agricultural land the overriding need for housing outweighs its retention for agricultural purposes when viewed against both Policy CP9 of the TMBCS and also paragraph 170 of the NPPF.

Potential land contamination:

6.53 Paragraph 178 of the NPPF states that planning policies and decisions should ensure that:

a) a site is suitable for its proposed use taking account ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);

b) 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

c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.

6.54 Paragraph 179 makes clear that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

6.55 In terms of land contamination, the submitted Phase 1 Desk Study and Preliminary Risk Assessment is considered to adequately review the history and environmental setting of the site. It notes that the site has not been previously developed and the risk of contamination is low. It concludes by setting out the scope of works recommended for the intrusive investigation to be carried out. These are considered satisfactory and conditions are proposed requiring appropriate site investigation and (where necessary) appropriate remediation measures to take place. These conclusions have been agreed by the Council's Environmental Protection officer and accordingly a number of conditions have therefore been recommended to be imposed on any permission granted.

Flooding and surface water management:

6.56 Policy CP10 states that:

1. Within the floodplain development should first seek to make use of areas at no or low risk to flooding before areas at higher risk, where this is possible and compatible with other policies aimed at achieving a sustainable pattern of development.

2. Development which is acceptable (in terms of PPS25) or otherwise exceptionally justified within areas at risk of flooding must:

(a) be subject to a flood risk assessment; and

(b) include an appropriately safe means of escape above flood levels anticipated during the lifetime of the development; and

(c) be designed and controlled to mitigate the effects of flooding on the site and the potential impact of the development on flooding elsewhere in the floodplain.

6.57 Paragraph 163 of the NPPF states that "When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
- b) the development is appropriately flood resistant and resilient;
- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- d) any residual risk can be safely managed; and
- e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

6.58 The site is entirely within Flood Zone 1 and so has a less than 1 in 1000 annual probability of flooding. The underlying ground conditions of the predominantly sands and gravels of the Folkestone Formation lend themselves to drainage systems using infiltration of surface water runoff into the ground. This is considered to be acceptable in this area. A detailed sustainable surface water drainage scheme has therefore been recommended and conditions have been advised which are entirely appropriate, as confirmed by KCC as the LLFA.

6.59 Similarly, Southern Water have raised no objections to the proposed development. I am therefore satisfied that, with the suggested conditions, the development would accord with paragraph 178 of the NPPF.

Noise:

6.60 Policy SQ6 of the MDE DPD relating to noise has been judged to be out of date since the original publication of the NPPF in 2012. As such, for decision making purposes it is necessary to rely on the contents of the NPPF in this respect. Paragraph 180 of the NPPF states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

6.61 A Noise Assessment has been submitted in support of the application. The report details the measurement of the noise climate present at the site, compares this with appropriate standards and sets out the attenuation measures that could be implemented to secure an acceptable environment. The indicative site layout plan shows that the proposed quantum of development could be laid out in a manner that would ensure the nearest properties would be significantly set away from the adjacent roads. The separation distances are such that even when assessed against 2031 traffic levels it is considered that, subject to appropriate glazing and trickle ventilators to mitigate any noise impact to dwellings, the development would experience a satisfactory noise climate. A condition can be imposed to suitably

secure these requirements. The proposal therefore accords with paragraph 180 of the NPPF.

Air quality:

6.62 Policy SQ4 of the MDE DPD relates to air quality. This policy states that development will only be permitted where all of the following criteria are met:

(a) the proposed use does not result in a significant deterioration of the air quality of the area, either individually or cumulatively with other proposals or existing uses in the vicinity;

(b) proposals would not result in the circumstances that would lead to the creation of a new Air Quality Management Area;

(c) proximity to existing potentially air polluting uses will not have a harmful effect on the proposed use; and

(d) there is no impact on the air quality of internationally, nationally and locally designated sites of nature conservation interest or appropriate mitigation is proposed to alleviate any such impact.

6.63 This policy is broadly in compliance with the guidance set out in the NPPF. Paragraph 181 of the NPPF states that planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.

6.64 An AQMA lies along the A20 corridor 600m to the east of the application site. The application is supported by an Air Quality Assessment that concludes that the development would not have an adverse impact on air quality in the existing AQMA nor result in additional areas being designated. I understand that the AQMA in this area has recently been reviewed and can be reduced on its easterly extent; however it is not considered that this proposed development would result in the area having to be extended again in the future. Subject to an appropriate construction management plan, which can be secured by a condition, I am satisfied that the air quality effects of the development would not be significant. The development therefore accords with paragraph 181 of the NPPF.

The Draft Local Plan:

- 6.65 The site is part of an area that is proposed to form part of an extension to the designated Green Belt as set out within the draft local plan which was submitted to the Secretary of State for examination on 23 January 2019.
- 6.66 Under paragraph 48 of the NPPF, a local planning authority can give weight to relevant policies in an emerging plan according to (1) the stage of preparation of the plan, (2) whether there are unresolved objections to the relevant policies and (3) the degree of consistency of the relevant policies with the NPPF.
- 6.67 Paragraph 49 then advises that this, when taken in the context of the NPPF and “in particular the presumption in favour of sustainable development - arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:
- a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and
 - b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.”
- 6.68 Paragraph 50 goes on to make clear that where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process.
- 6.69 In relation to these paragraphs, whilst the draft local plan has been submitted to the Secretary of State for examination, this has yet to be taken forward and therefore the inclusion of the site within the proposed Green Belt extension (Policy LP11) has not been tested at examination. Furthermore, at this time there remain unresolved objections to the proposed Green Belt extension which have yet to be resolved through the local plan process.
- 6.70 I can therefore conclude that limited weight can be afforded to the draft plan at this stage in respect of this site and the proposal to include the land as part of the Green Belt extension cannot at this time represent a reasonable or justifiable ground of refusal.
- 6.71 Notwithstanding this position, Members can note that in terms of strategic allocations, confirmation by Highways England that this development coming forward at this time would not severely affect the strategic road network means that there would be no prejudice to any of the specific housing allocations in the vicinity within local plan arising from this scheme coming forward at this time.

Planning Obligations:

6.72 Regulation 122 of the CIL Regulations (2010) set out the statutory framework for seeking planning obligations and states 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

6.73 Paragraph 56 of the NPPF reflects this statutory requirement.

6.74 In addition to the matters set out above within the report concerning specific obligations that would be expected to come forward as part of this scheme, I address the following.

6.75 The scheme proposes to provide 40% of the total number of dwellings as affordable housing and therefore accords with Policy CP17 of the TMBCS. The approval of the specific size, type and tenure of affordable housing and implementation of the provision will be secured through the legal agreement to ensure that the provision comes forward in a manner that reflects and meets local need. The detailed drafting of the provisions to be contained within the legal agreement in this respect are currently being worked up in liaison with the Council's Housing Services team to ensure the provision acceptably meets identified need within this part of the Borough.

6.76 Policy OS3 of the MDE DPD required all developments of 5 units or more (net) to provide an open space provision in line with Policy Annex OS3. The policy sets out that, where possible to do so, open space should be provided on-site. The indicative plans show accordance with this policy as significant areas of amenity space and play areas are to be incorporated into the layout. It is not possible to incorporate outdoor sports facilities or parks/gardens on site and in these circumstances, the policy allows for a financial contribution to be made towards off-site provision and enhancement. In these respects, the following has been secured:

- £304,903 towards Parks and Gardens at Leybourne Lakes Country Park; and
- £559,390 towards the provision of enhanced Outdoor Sports facilities in the surrounding area.

6.77 Policy CP25 of the TMBCS states that:

1. Development will not be proposed in the LDF or permitted unless the service, transport and community infrastructure necessary to serve it is either available, or will be made available by the time it is needed. All development proposals must therefore either incorporate the infrastructure required as a result of the scheme, or make provision for financial contributions and/or land to secure such infrastructure or service provision at the time it is needed, by means of conditions or a planning obligation.

2. Where development that causes material harm to a natural or historic resource is exceptionally justified, appropriate mitigation measures will be required to minimise or counteract any adverse impacts. Where the implementation of appropriate mitigation is still likely to result in a residual adverse impact then compensatory measures will be required.

6.78 KCC have advised that the development generates a need for 70 additional primary school places and 50 additional secondary school places and that a financial contribution should be sought in each case as follows:

- £1,333,750 towards phase 1 of the new Aylesford Primary School at Whitepost Field, with £802,045 towards the land acquisition for its development.
- £1,171,750 towards the new secondary school at Broadwater Farm, with £764,815 towards the land costs.

6.79 Notwithstanding the conclusions regarding the weight to be afforded to the draft local plan at this stage for decision making purposes, understandably KCC are planning for projects which take into account the proposed development strategies set out by it. There does however need to be a clear mechanism in place to ensure that the impacts of the development in this case can still be mitigated in the event that the strategy does not come forward in the way envisaged or relative timescales do not align. This can be adequately addressed through mechanisms contained within the legal agreement.

6.80 KCC has also advised that in order to mitigate the additional impact that the development would have on delivery of its community services, the payment of appropriate financial contributions is required, as follows:

- £12,596.70 for enhancements and additional library book stock for Larkfield Library;
- £32.57 per dwelling towards additional Community Learning facilities at Aylesford School Adult Education Centre;
- £65.50 per dwelling towards additional resources at Aylesford Youth Club; and
- £146.88 per household towards borough wide Social Care provision.

- 6.81 I am satisfied that sufficient detail has been provided in all these respects to ensure the relevant statutory and policy tests have been met, and the contributions should be secured through the legal agreement, which KCC would also be a party to.
- 6.82 NHS CCG have advised that the proposal will generate approximately 585 new patient registrations based on an average of 2.34 per dwelling and that this would have implications on the delivery of general practice services at potentially the Thornhills Medical Practice, West Malling Group Practice and Watringbury Surgery. Therefore, mitigation is required through the payment of a £210,600 financial contribution towards refurbishment, reconfiguration and/or extension at these surgeries. Again, this requirement is considered to meet the necessary tests and should be secured within the final legal agreement.
- 6.83 The various necessary highways obligations have been discussed at length at paragraphs 6.25 to 6.38 of this report and are not repeated here, other than to make clear they are also required and necessary to make the development acceptable in planning terms and thus meet the statutory and policy tests set out above.

Planning balance and overall conclusions:

- 6.84 The presumption in favour of sustainable development as set out at paragraph 11 (d) of the NPPF applies in this instance. The test in this case is whether or not there are any adverse impacts of granting planning permission that would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 6.85 The proposed development would provide up to 250 new dwellings which would assist in addressing the Borough's shortfall in housing supply. It would also provide 40% affordable housing with a mix of size and tenures which would contribute to addressing a recognised need for affordable housing in the Borough. These particular benefits were considered by the Inspector very recently in allowing residential development on three parcels of employment land at Kings Hill, noting that they would significantly contribute to the supply and mix of housing in the borough which, particularly due to the extent of current under-supply, would amount to a substantial benefit. Similar benefits would arise through the grant of planning permission in this case.
- 6.86 Furthermore, and given that the overriding consideration in recommending that planning permission be granted here relates to the Council's current five year housing land supply position, I consider it appropriate to impose a shorter time frame on the developer to submit the reserved matters for the scheme pursuant to section 92(2) of the Act. I am therefore recommending that reserved matters be submitted within 18 months of a grant of permission with commencement within a further 18 months of their approval. Whilst I understand the impact the Covid-19 outbreak has had on the economy and the development sector I consider that the

benefit of being able to deliver a residential development of the type would undoubtedly make an important contribution to the overall housing provision in the shorter term. On this basis it is considered that the shorter commencement period is the appropriate recommendation.

6.87 Overall, and for the reasons set out throughout this report, I consider that there would be no adverse impacts of granting planning permission for the development that would significantly and demonstrably outweigh the benefits that the development would bring, when assessed against the policies in the Framework taken as a whole.

6.88 It is therefore recommended that outline planning permission be granted subject to the finalisation of a legal agreement securing various planning obligations as set out throughout this report and various planning conditions to ensure that the development comes forward in an acceptable, high quality fashion.

7. Recommendation:

7.1 **Grant outline planning permission** in accordance with the following submitted details: Site Layout 6273-01G dated 10.12.2019, Master Plan LE-20 A dated 10.12.2019, Transport Statement Addendum dated 20.09.2019, Other technical note dated 10.10.2019, Proposed Plans ITL11317-GA-001 dated 01.08.2019, Location Plan 6273-03 dated 01.08.2019, Letter dated 01.08.2019, Statement BUILT HERITAGE dated 01.08.2019, Design and Access Statement dated 01.08.2019, Travel Plan dated 01.08.2019, Planning Statement dated 01.08.2019, Air Quality Assessment dated 01.08.2019, Archaeological Assessment dated 01.08.2019, Drainage Statement dated 01.08.2019, Ecological Assessment dated 01.08.2019, Flood Risk Assessment dated 01.08.2019, Visual Impact Assessment dated 01.08.2019, Noise Assessment dated 01.08.2019, Report Risk Assessment dated 01.08.2019, Statement community involvement dated 01.08.2019, Transport Statement dated 01.08.2019, Appraisal utilities dated 01.08.2019, Drawing ITL11317-GA-017 REV A dated 10.12.2019, Drawing ITL11317-GA-018 dated 10.12.2019, Drawing ITL11317-GA-014 dated 10.12.2019, Transport Statement ITL11317-021B dated 10.12.2019, and subject to:-

- The applicant entering into a planning obligation with the Borough Council to provide on-site affordable housing and financial contributions towards public open space provision (parks and gardens and outdoor sports facilities) and enhancement and health care provision;
- The applicant entering into a planning obligation with Kent County Council to make financial contributions towards off-site highway junction improvements, public transport, the provision of education facilities, and community services

The section 106 agreement is now at an advanced stage of preparation and should be agreed in principle within 1 month and the legalities completed within 3 months of the committee resolution unless there are good reasons for the delay. Should the agreement under Section 106 of the Act not be completed and signed by all relevant parties by 09 October 2020, a report back to the Area 3 Planning Committee will be made either updating on progress and making a further recommendation or in the alternative the application may be refused under powers delegated to the Director of Planning, Housing and Environmental Health who will determine the specific reasons for refusal in consultation with the Chairman and Ward Members.

- The following conditions:

1. Approval of details of the layout and appearance of the development, the landscaping of the site, and the scale of the development (hereinafter called the "reserved matters") shall be obtained from the Local Planning Authority.

Reason: No such approval has been given.

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

Reason: In pursuance of Section 92(2) of the Town and Country Planning Act 1990.

3. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of one year from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: In pursuance of Section 92(2) of the Town and Country Planning Act 1990.

4. Applications for the approval of the reserved matters shall be in conformity with the indicative layout referenced 6273-01 Rev G and indicative landscape layout referenced LE-20 received 10 December 2019.

Reason: To ensure the scale of the development is compatible with the character of the site and its surroundings.

5. Prior to or as part of the first submission pursuant to condition 1, a scheme detailing the phasing of the construction of the development including the means of access, layout of buildings, car parking and servicing arrangements, shall be submitted to and approved in writing by the Local Planning Authority. The development will be carried out in accordance with the details approved.

Reason: In the interests of highway safety and the amenity of the locality.

6. The details submitted in pursuance to Condition 1 shall be accompanied by a contoured site plan and full details of the slab levels and ridge levels at which the dwellings are to be constructed and development shall be carried out in accordance with the approved details.

Reason: To ensure the scale of the development is compatible with the character of the site and its surroundings.

7. The details submitted in pursuance of Condition 1 shall be accompanied by a scheme of landscaping and boundary treatment. The scheme shall be in conformity to the indicative layout referenced LE-20 received 10 December 2019 and follow the recommendations set out in the Arboricultural Implications Report received 01 August 2019. The scheme shall be approved in writing by the Local Planning Authority and shall be implemented by the approved date. Any trees or plants which within 10 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of visual amenity.

8. The details submitted in pursuance of Condition 1 shall show land, reserved for the parking and turning of vehicles. None of the dwellings hereby approved shall be occupied until these areas have been provided, surfaced and drained in accordance with the approved details. Thereafter no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown (other than the erection of a private garage or garages) or in such a position as to preclude vehicular access to reserved vehicle parking areas.

Reason: To ensure that adequate parking is provided, maintained and retained.

9. The details submitted pursuant to condition 1 shall show details of vehicle charging points. The charging points shall be approved by the Local Planning Authority and be installed prior to the first occupation of any dwelling, and thereafter maintained and retained in accordance with the approved details.

Reason: To encourage the use of electric vehicles in the interests of mitigating climate change in accordance with national objectives.

10. The details submitted in pursuance of Condition 1 shall show the proposed enhancements to the Public Rights of Way MR119 and MR120 through the site and their linkages to the surrounding highway network in conformity with the indicative layout referenced 6273-01 Rev G received 10 December 2019. None of the dwellings hereby approved shall be occupied until these routes have been

provided, surfaced and drained in accordance with the approved details and shall be retained and maintained at all times thereafter.

Reason: To promote healthy lifestyles and social connectivity and to protect the visual amenity and character of the area.

11. None of the dwellings hereby approved shall be occupied until the access from A20 London Road as shown in principle on drawing number ITL11317-GA-014-Rev H received 27 February 2020 has been substantially completed.

Reason: The undertaking of the works without the proposed highways improvements is likely to result in unacceptable traffic conditions in the surrounding area.

12. Prior to the commencement of the development hereby approved, arrangements for the management of all construction works shall be submitted to and approved by the Local Planning Authority. The management arrangements to be submitted shall include (but not necessarily be limited to) the following:

- The days of the week and hours of the day when the construction works will be limited to and measures to ensure these are adhered to;
- Procedures for managing all traffic movements associated with the construction works including (but not limited to) the delivery of building materials to the site (including the times of the day when those deliveries will be permitted to take place and how/where materials will be offloaded into the site) and for the management of all other construction related traffic and measures to ensure these are adhered to;
- Procedures for notifying neighbouring properties as to the ongoing timetabling of works, the nature of the works and likely their duration, with particular reference to any such works which may give rise to noise and disturbance and any other regular liaison or information dissemination; and
- The specific arrangements for the parking of contractor's vehicles within or around the site during construction and any external storage of materials or plant throughout the construction phase.

The development shall be undertaken in full compliance with the approved details.

Reason: In the interests of residential amenity and highway safety.

13. The use shall not be commenced, nor any premises occupied until details of a scheme for the storage and screening of refuse has been submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before the development is occupied and shall be retained at all times thereafter.

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

14. The details submitted in pursuance of Condition 1 shall show the proposed areas of amenity, natural and formal open space, Neighbourhood Equipped Area of Play, a centrally located Local Equipped Area of Play and Local Areas of Play, along with a timetable for their implementation. The details shall be approved by the Local Planning Authority and be installed in accordance with the approved and maintained and retained at all times thereafter.

Reason: To ensure suitable levels of open space in the interests of health and wellbeing and to ensure compliance with Policy OS3 of the MDE DPD 2010.

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

Reason: To ensure that features of archaeological interest are properly examined and recorded and that due regard is had to the preservation in situ of important archaeological remains.

16. The details submitted in pursuance to Condition 1 shall provide details and samples of all materials to be used externally. These details shall be submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not harm the character of the countryside.

17. The details submitted in pursuance of Condition 1 shall incorporate the mitigation and enhancement measures detailed in the Ecological Assessment received 1 August 2019. The measures shall be submitted to and approved by the Local Planning Authority, and implemented in accordance with an agreed timetable and retained thereafter.

Reason: In the interests of nature conservation and biodiversity.

18. The details submitted in pursuance of Condition 1 shall incorporate the mitigation measures detailed in the Air Quality Assessment received 1 August 2019. The

measures shall be submitted to and approved by the Local Planning Authority, and implemented in accordance with an agreed timetable and retained thereafter.

Reason: To ensure suitable levels of air quality

19. No above ground works, other than ground investigations work or site survey works, shall commence until a scheme to connect all plots to mains foul drainage has been submitted to, and approved in writing by the local planning authority. The occupation of the development hereby permitted is to be phased and implemented to align with the delivery by Southern Water of any required sewerage network reinforcement.

Reason: To ensure that adequate waste water network capacity is available to adequately drain the development.

20. No development shall take place other than as required as part of any relevant approved site 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 site 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 site 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 the development 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 Paragraph 170 of the NPPF 2019.

21. Following completion of the approved remediation strategy, and prior to the first occupation of the development, a relevant verification report that scientifically and technically demonstrates the effectiveness and completion of the remediation scheme at above and below ground level shall be submitted for the information of the Local Planning Authority. The report shall be undertaken in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. Where it is identified that further remediation works are necessary, details and a timetable of those works shall be submitted to the Local Planning Authority for written approval and shall be fully implemented as approved. Thereafter, no works shall take place such as to prejudice the effectiveness of the approved scheme of remediation.

Reason: In the interests of amenity, public safety and human health and in accordance with paragraph 170 of the NPPF 2019.

22. Development shall not begin in any phase 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 upon the DRAINAGE ASSESSMENT, ref C85673-R400A and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 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 (with reference to published guidance):

- that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details.

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.

23. No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report,

pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate the suitable modelled operation of the drainage system where the system constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework.

24. No infiltration of surface water drainage into the ground is permitted other than with the written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants in line with paragraph 170 of the National Planning Policy Framework.

Informatives

1. The proposed development is within a road which has a formal street numbering scheme and it will be necessary for the Council to allocate postal address(es) to the new property/ies. To discuss the arrangements, you are invited to write to Street Naming & Numbering, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or to e-mail to addresses@tmbc.gov.uk. To avoid difficulties for first occupiers, you are advised to do this as soon as possible and, in any event, not less than one month before the new properties are ready for occupation.
2. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.
3. During the demolition and construction phases, the hours of noisy working (including deliveries) likely to affect nearby properties should be restricted to Monday to Friday 07:30 hours - 18:30 hours; Saturday 08:00 to 13:00 hours; with no such work on Sundays or Public or Bank Holidays.

4. The CL:AIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice: excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution treated materials can be transferred between sites as part of a hub and cluster project some naturally occurring clean material can be transferred directly between sites.
5. Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.
6. The Environment Agency recommends that developers should refer to the Position statement on the Definition of Waste: Development Industry Code of Practice and the Environmental regulations page on GOV.UK.
7. No bonfires should be had at the site to avoid justified complaints from neighbours.
8. The network provided by Southern Water may require reinforcement. Accordingly Southern Water and the Developer will need to work together in order to ensure the delivery of the network reinforcement aligns with the proposed occupation of the development, as it will take time to design and deliver any such reinforcement.
9. It is recommended that all developers work with a telecommunication partner or subcontractor in the early stages of planning for any new development to make sure that Next Generation Access Broadband is a fundamental part of the project. Access to superfast broadband should be thought of as an essential utility for all new homes and businesses and given the same importance as water or power in any development design. Please liaise with a telecom provider to decide the appropriate solution for this development and the availability of the nearest connection point to high speed broadband. We understand that major telecommunication providers are now offering Next Generation Access Broadband connections free of charge to the developer. For advice on how to proceed with providing access to superfast broadband please contact broadband@kent.gov.uk
10. The applicant is strongly encouraged to consider opportunities for incorporating renewable energy technologies and measures to support biodiversity into the approved development.

Contact: Robin Gilbert

SUPPLEMENTARY REPORTS**AREA 3 PLANNING COMMITTEE DATED 9 July 2020**

**East Malling And Larkfield TM/19/01814/OA
East Malling****Outline Application: Erection of up to 250 new homes (40% affordable), new community building, areas of public open spaces, areas of play, upgrade of existing footpaths, together with new vehicular access onto London Road and associated parking and landscaping at Development Site Land West Of Winterfield Lane East Malling West Malling Kent**

Leybourne PC: Has raised detailed questions about the contributions that are being sought in order to mitigate the impacts of the development proposed (in accordance with statutory and policy tests), suggesting that the contributions should/could be attributed to other local schemes. These suggestions are summarised as follows:

- Leybourne Parish Council had drawn up plans (in conjunction with TMBC) to make Leybourne Castle Lakes a location of AONB, as a wildlife and educational facility for the local communities and would be working with partnership organisations to achieve this proposal.
- Local playing fields in the area including at Oxley Shaw Lane;
- New primary school at the site where ample land is available to accommodate such provision rather than in Aylesford;
- Support for youth work at the village hall rather than at Aylesford in order to fund activities and provide a dedicated Youth Worker which will provide immediate benefit for this community;
- Health contribution should be directed to Leybourne Surgery.

Private Reps: A further 331 objections and 7 supporting representations have been received since publication of the main agenda papers. The comments received do not raise any new material planning considerations beyond those addressed in the main report.

A petition with a total of 861 signatures has also been received by the Council. The objections raised in the petition are summarised as follows:

- Site is countryside and is proposed to be included within the Green Belt within the draft local plan;

- Site is good agricultural land, an important green space with rural public footpaths providing a recreational asset the character of which would be lost if incorporated into the development
- Important within the local landscape, adjoins the CA and helps retain the separate identities of East and West Malling

Officers are also aware of a separate petition (with 930 signatures) having been circulated to all Members of the Planning Committee by email on 08 July, stating “*Stop this development in East Malling that threatens our Green Belt and Open Spaces*”

The matters raised by the petitions have been fully addressed within the main agenda papers throughout the assessment.

DPHEH:

Planning obligations:

For the avoidance of any doubt, all planning obligations sought via the section 106 legal agreement in this (and indeed any) case must meet the statutory and policy tests which are cited at paragraph 6.72 of the main agenda. Projects have been specifically identified in all instances to meet these requirements and it is not possible to simply redirect any element of the contributions secured to an alternative scheme (should one come forward) simply out of preference. In terms of open space provision, adopted policy OS3 (2) of the MDE DPD clearly sets out that the form and level of the provision of open space will be determined in accordance with the sequential approach and methodology set out in Annex D of the MDE DPD. This was applied in this instance and it is a consequence of that exercise (which is a requirement of adopted policy) that has resulted in the form and level of provision that will be required in association with this development.

In brief response to the points raised by Leybourne PC, to assist Members, I can advise as follows:

- The parks and gardens contribution is aimed at Leybourne Lakes because there is an identified project at this site, which is required in order to meet the tests for securing contributions; policy OS3 sets out a hierarchy of types of open space with parks and gardens being the top layer of this provision with the primary purpose of providing accessible high quality open space that offers opportunities for informal recreation and community events.
- With regard to outdoor sports facilities, the contribution is worded to be used for facilities in the surrounding area, which includes Leybourne;
- Where contributions towards schools are required; KCC as the Education Authority sets out the specific projects to which these should be dedicated based on their own evidence and requirements. This is also the case for projects

relating to youth facilities in the vicinity. KCC will be a party to the s106 legal agreement on this basis;

- In making their representations, the CCG has considered the closest surgery; Leybourne Surgery is part of the West Malling Group practice which is one of the practice groups listed as a project to which the contribution would be directed.

Outwith the assessment and determination of this application, officers would strongly encourage the Parish Councils to discuss potential projects with Borough and County Council officers going forward.

Draft Local Plan:

Officers are aware that Members were contacted in writing on 08 July by a representative on behalf of the “Protect West Malling Action Group” concerning in particular matters related to the policies contained within both the adopted LDF and draft local plan as submitted for examination. The contents of the letter provided to Members is ultimately misleading and as such, the following detailed officer guidance is set out below:

Members will be aware that the local plan has been submitted for examination, and the dates for the initial phase of hearings have now been set. NPPF Paragraphs 48 - 50 set out the weight which can be given to policies in emerging plans and the circumstances where it could be argued that a proposal is “premature” and should be refused on that basis:

“48. Local planning authorities may give weight to relevant policies in emerging plans according to: a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given); b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)”²².

49. However in the context of the Framework – and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both: a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

50. Refusal of planning permission on grounds of prematurity will seldom be justified where a draft plan has yet to be submitted for examination; or – in the case of a neighbourhood plan – before the end of the local planning authority publicity period on the draft plan. Where planning permission is refused on grounds of prematurity, the

local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process.

²² *During the transitional period for emerging plans submitted for examination (set out in paragraph 214), consistency should be tested against the previous Framework published in March 2012.”*

When the emerging plan is at an “advanced” stage is not a defined position. However, in **Leeds City Council v The Secretary of State for Housing, Communities and Local Government & Taylor Wimpey (UK) Limited [2019] EWHC 682 (Admin)**, the approach of the Inspector to this was challenged. At Inquiry, the Inspector had found that *“I understand Guidance to mean that the emerging plan should be sufficiently advanced to be not yet formally part of the development plan, i.e. that the examining Inspector’s Main Modifications have been published, so that it is **reasonably clear what final form the plan would take**, even though it has not been finalised or formally adopted.”* (my emphasis). The judge found no fault with this reasoning, which he found to be in line with PPG guidance, now enshrined in paragraphs 48-50 NPPF.

Turning to each of the relevant paragraphs, paragraph 48 deals with the weight to be attached to emerging policies (in this case the Green Belt extension encompassing the application site) and sets out 3 tests.

Test (a) is the degree of advancement of the plan. The approach of the Inspector in Leeds (above) is a reasonable approach to take. One must be satisfied that it is reasonably clear what final form the plan would take. At this point in time, in particular where the Inspector’s Matters, Issues and Questions have made clear there are questions over how the revised Green Belt boundaries have been set, it cannot be said with any certainty whether this site would remain unaffected in the emerging plan or subject to main modifications which might take all or part of the site out of the proposed Green Belt extension.

Under (b) there are unresolved objections to this site being included in the Green Belt, not least from the applicant. These will not be resolved until the examination of these issues has taken place.

As to (c), the policies are, in our view, consistent with the NPPF 2012. However, given the conclusions above regarding “advanced stage” and the outstanding objections, only limited weight can be afforded to the emerging policy at the present time.

On to prematurity, paragraph 49 sets out two tests which must be satisfied if prematurity is to justify a refusal of planning permission. Firstly, that the development would predetermine “decisions about the scale, location and phasing of new development that are central to the emerging plan.” This, primarily, would seem to mean that the effect of the proposal would have to predetermine decisions about *allocated development sites* within the emerging plan. The site is not allocated within the emerging plan for development. It could be said that the provision of 250 additional homes here could have an effect on the objectively assessed need/ five year housing supply which might have a knock-on effect on the numbers of houses needing to be provided through the local plan. However, given the relatively small scale of this development, considered against the housing need over the emerging plan period, this effect is likely to be small.

Secondly, how advanced the plan is. For the reasons set out above, it is considered that the plan is not at an advanced stage; therefore, *even if* the first test in paragraph 49 is met, the second is not.

New Homes Bonus:

Officers are aware that the developer has recently highlighted the fact that the Council would be in receipt of New Homes Bonus in the event that planning permission for this development is granted; the intention being to highlight purported benefits of the development coming forward in view of the test the Council is required to undertake in respect of the presumption in favour of sustainable development (paragraph 11(d) (ii) of the NPPF).

The Planning Practice Guidance (the “PPG”) sets out that section 70 (2) of the Town and Country Planning Act 1990 provides that a local planning authority must have regard to a local finance consideration as far as it is material. [Section 70\(4\) of the 1990 Act \(as amended\)](#) defines a local finance consideration as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy. It goes on to state as follows:

“Whether or not a ‘local finance consideration’ is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. It would not be appropriate to make a decision based on the potential for the development to raise money for a local authority or other government body

In deciding an application for planning permission or appeal where a local financial consideration is material, decision takers need to ensure that the reasons supporting the decision clearly state how the consideration has been taken into account and its connection to the development.

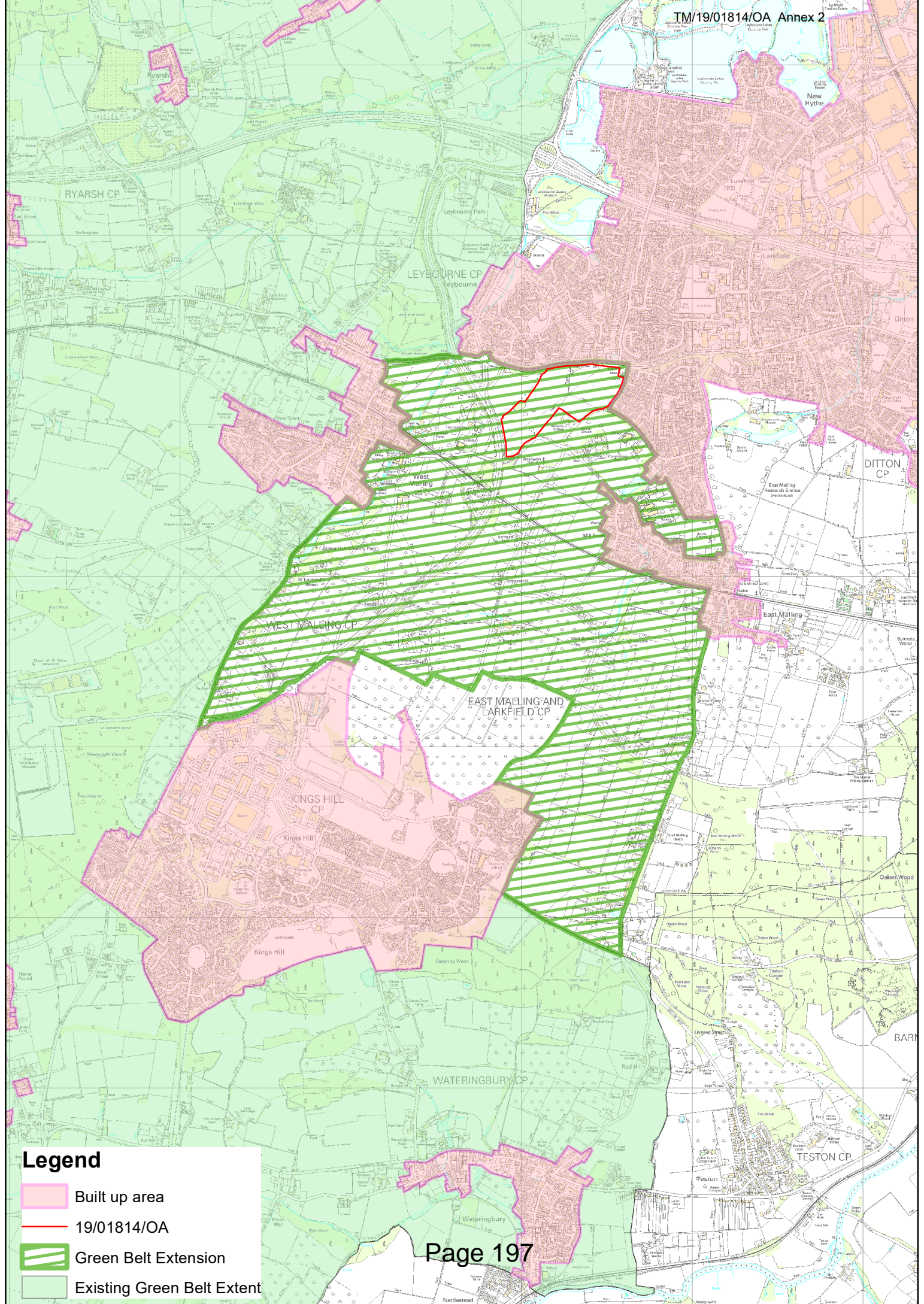
New Homes Bonus payments recognise the efforts made by authorities to bring residential development forward. Even where anticipated Bonus payments are not a material consideration in making planning decisions, they can be noted for information in committee reports on applications for housing. Where this is done, care will be required not to imply that Bonus payments are relevant to the decision before the committee.”

In straightforward terms, officers consider that receipt of New Homes Bonus (NHB) is not a material planning consideration. Whilst it would have an economic benefit to the community as a whole, there are no identified measures necessary to offset the impacts of the development to which NHB funding has been allocated and no policy basis upon which to do so.

Even if the NHB were to be a material consideration it would carry little weight because

- (i) the Council has already received its allocation for the financial year 2020/21;
- (ii) there is no certainty over the actual level of NHB which the scheme might generate (given that the application is in outline) and
- (iii) there is some uncertainty as to whether NHB funding will continue to be given by central government next year or in future years at all.

RECOMMENDATION REMAINS UNCHANGED



Legend

- Built up area
- 19/01814/OA
- Green Belt Extension
- Existing Green Belt Extent

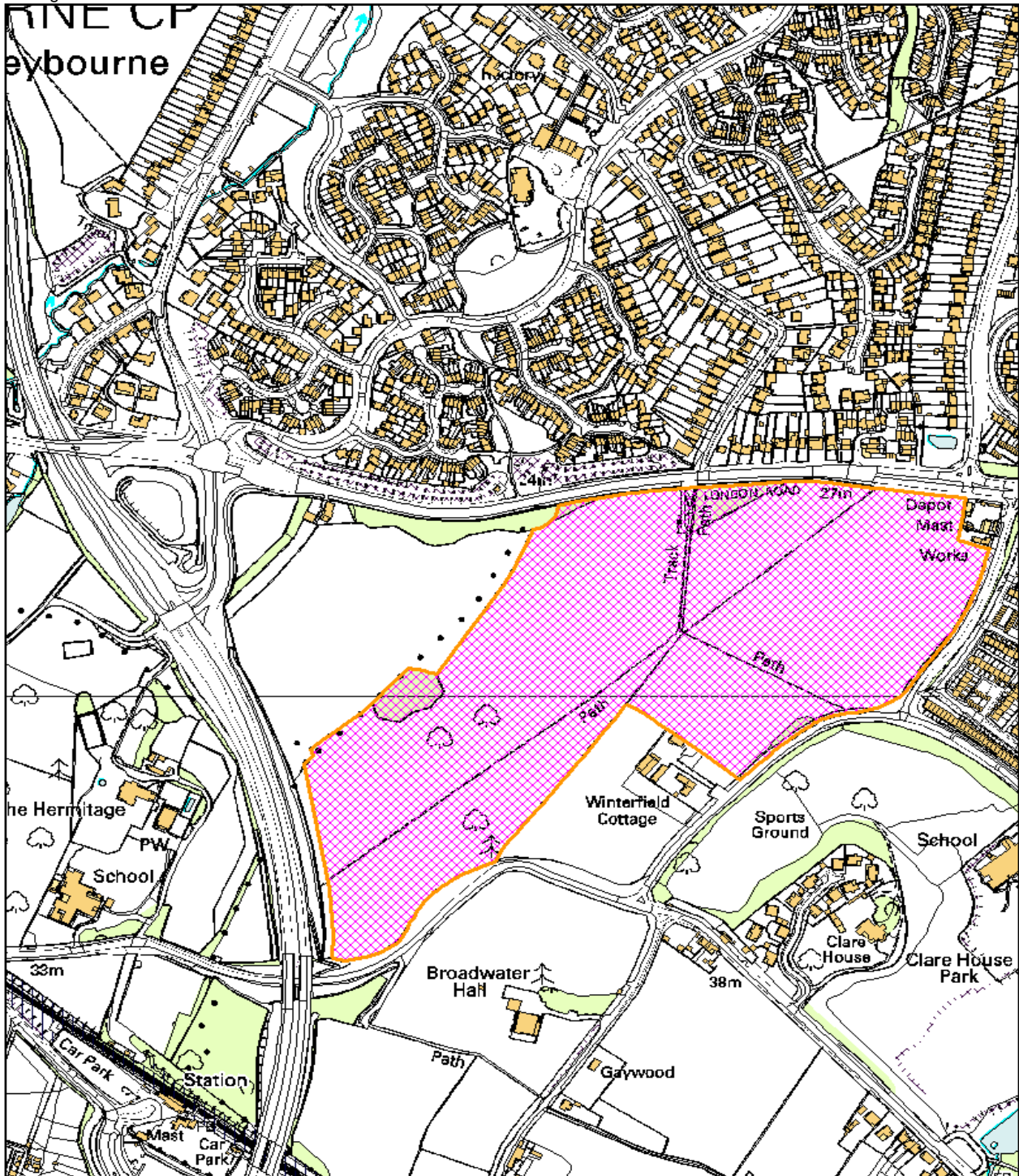
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TM/19/01814/OA

Development Site Land West Of Winterfield Lane East Malling West Malling Kent

Outline Application: Erection of up to 250 new homes (40% affordable), new community building, provision of a new country park and other areas of public open spaces, areas of play, upgrade of existing footpaths, together with new vehicular access onto London Road and associated parking and landscaping

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Agenda Item 10

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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By virtue of paragraph(s) 5 of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

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