

TONBRIDGE & MALLING BOROUGH COUNCIL



EXECUTIVE SERVICES

Chief Executive

Julie Beilby BSc (Hons) MBA

Gibson Building
Gibson Drive
Kings Hill, West Malling
Kent ME19 4LZ
West Malling (01732) 844522

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
committee.services@tmbc.gov.uk

28 November 2023

To: MEMBERS OF THE AREA 2 PLANNING COMMITTEE
(Copies to all Members of the Council)

Dear Sir/Madam

Your attendance is requested at a meeting of the Area 2 Planning Committee to be held in Council Chamber, Gibson Drive, Kings Hill on Wednesday, 6th December, 2023 commencing at 7.30 pm.

Members of the Committee are required to attend in person. Other Members may attend in person or participate online via MS Teams.

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](#).

Yours faithfully

JULIE BEILBY

Chief Executive

AGENDA

1. Guidance for the Conduct of Meetings

5 - 8

PART 1 - PUBLIC

2. Apologies for Absence
3. Declarations of Interest

Members are reminded of their obligation under the Council's Code of Conduct to disclose any Disclosable Pecuniary Interests and Other Significant Interests in any matter(s) to be considered or being considered at the meeting. These are explained in the Code of Conduct on the Council's website at [Code of conduct for members – Tonbridge and Malling Borough Council \(tmbc.gov.uk\)](https://www.tmbc.gov.uk).

Members in any doubt about such declarations are advised to contact Legal or Democratic Services in advance of the meeting.

4. Minutes 9 - 10

To confirm as a correct record the Minutes of the meeting of Area 2 Planning Committee held on 1 November 2023

5. Glossary and Supplementary Matters 11 - 18

Glossary of abbreviations used in reports to the Area Planning Committee (attached for information)

Any supplementary matters will be circulated via report in advance of the meeting and published to the website.

Decisions to be taken by the Committee

6. TM/23/00550/FL - 1 Bourne Vale, Plaxtol, Sevenoaks 19 - 42

Demolition of existing single storey double garage and erection of new detached 2 storey dwelling with rooms in roof and associated external works.

7. TM/23/01006/FL - The Scared Crow, 79 Offham Road, West Malling 43 - 60

Change of use of existing pub to form 2 x 3 bed dwellings including erection of a first floor South West rear extension, two storey South East rear extension and associated alterations.

8. TM/21/00881/OA - MOD Land South of Discovery Drive, Kings Hill, West Malling 61 - 100

Outline Application: Development of up to 65 dwellings (all matters reserved other than access).

Matters for Information

9. Planning Appeals, Public Inquiries and Hearings 101 - 102

To receive and note any update in respect of planning appeals, public inquiries and hearings held since the last meeting of the Planning Committee.

10. 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

11. Exclusion of Press and Public 103 - 104

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.

PART 2 - PRIVATE

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 W E Palmer (Chair)
Cllr C Brown (Vice-Chair)

Cllr B Banks
Cllr R P Betts
Cllr M D Boughton
Cllr P Boxall
Cllr M A Coffin
Cllr S Crisp
Cllr Mrs T Dean

Cllr D Harman
Cllr S A Hudson
Cllr J R S Lark
Cllr R V Roud
Cllr K B Tanner
Cllr Mrs M Tatton
Cllr M Taylor

GUIDANCE ON HOW MEETINGS WILL BE CONDUCTED

- (1) Most of the Borough Council meetings are livestreamed, unless there is exempt or confidential business being discussed, giving residents the opportunity to see decision making in action. These can be watched via our YouTube channel. When it is not possible to livestream meetings they are recorded and uploaded as soon as possible:

<https://www.youtube.com/channel/UCPp-IJISNgoF-ugSzxjAPfw/featured>

- (2) There are no fire drills planned during the time a meeting is being held. For the benefit of those in the meeting room, the fire alarm is a long continuous bell and the exits are via the doors used to enter the room. An officer on site will lead any evacuation.
- (3) Should you need this agenda or any of the reports in a different format, or have any other queries concerning the meeting, please contact Democratic Services on committee.services@tmbc.gov.uk in the first instance.

Attendance:

- Members of the Committee are required to attend in person and be present in the meeting room. Only these Members are able to move/ second or amend motions, and vote.
- Other Members of the Council can join via MS Teams and can take part in any discussion and ask questions, when invited to do so by the Chair, but cannot move/ second or amend motions or vote on any matters. Members participating remotely are reminded that this does not count towards their formal committee attendance.
- Occasionally, Members of the Committee are unable to attend in person and may join via MS Teams in the same way as other Members. However, they are unable to move/ second or amend motions or vote on any matters if they are not present in the meeting room. As with other Members joining via MS Teams, this does not count towards their formal committee attendance.
- Officers can participate in person or online.

- Members of the public addressing an Area Planning Committee should attend in person. However, arrangements to participate online can be considered in certain circumstances. Please contact committee.services@tmbc.gov.uk for further information.

Before formal proceedings start there will be a sound check of Members/Officers in the room. This is done as a roll call and confirms attendance of voting Members.

Ground Rules:

The meeting will operate under the following ground rules:

- Members in the Chamber should indicate to speak in the usual way and use the fixed microphones in front of them. These need to be switched on when speaking or comments will not be heard by those participating online. Please switch off microphones when not speaking.
- If there any technical issues the meeting will be adjourned to try and rectify them. If this is not possible there are a number of options that can be taken to enable the meeting to continue. These will be explained if it becomes necessary.

For those Members participating online:

- please request to speak using the 'chat or hand raised function';
- please turn off cameras and microphones when not speaking;
- please do not use the 'chat function' for other matters as comments can be seen by all;
- Members may wish to blur the background on their camera using the facility on Microsoft teams.
- Please avoid distractions and general chat if not addressing the meeting
- Please remember to turn off or silence mobile phones

Voting:

Voting may be undertaken by way of a roll call and each Member should verbally respond For, Against, Abstain. The vote will be noted and announced by the Democratic Services Officer.

Alternatively, votes may be taken by general affirmation if it seems that there is agreement amongst Members. The Chairman will announce the outcome of the vote for those participating and viewing online.

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TONBRIDGE AND MALLING BOROUGH COUNCIL

AREA 2 PLANNING COMMITTEE

MINUTES

Wednesday, 1st November, 2023

Present: Cllr W E Palmer (Chair), Cllr C Brown (Vice-Chair), Cllr B Banks, Cllr R P Betts, Cllr M D Boughton, Cllr M A Coffin, Cllr S Crisp, Cllr D Harman, Cllr S A Hudson, Cllr J R S Lark, Cllr R V Roud, Cllr Mrs M Tatton and Cllr M Taylor

Apologies for absence were received from Councillors P Boxall, Mrs T Dean and K B Tanner.

PART 1 - PUBLIC

AP2 23/13 DECLARATIONS OF INTEREST

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

AP2 23/14 MINUTES

RESOLVED: That the Minutes of the meeting of the Area 2 Planning Committee held on 9 August 2023 be approved as a correct record and signed by the Chairman.

AP2 23/15 GLOSSARY AND SUPPLEMENTARY MATTERS

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

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

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

AP2 23/16 TM/23/01194/FL - NORTH DOWN, PLAXDALE GREEN ROAD, STANSTED, SEVENOAKS

Extension of an outbuilding to create new accommodation.

RESOLVED: That planning permission be GRANTED in accordance with the submitted details, conditions, reasons and informatives set out in the report of the Director of Planning, Housing and Environment Health, subject to the addition of Condition 5 as follows:

5. Within 3 months of the date of this decision a scheme of landscaping between the western elevation of the outbuilding and the boundary of the site that is shared with Plaxdale Green Road has been submitted to and approved by the Local Planning Authority. The scheme of landscaping shall include details pertaining to the location, species and size of the trees or shrubs. 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 a similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To provide additional screening for the proposed extension and to mitigate its impact upon the rural and open character of the Green Belt.

AP2 23/17 PLANNING APPEALS, PUBLIC INQUIRIES AND HEARINGS

There were no updates in respect of planning appeals, public enquiries and hearings held since the last meeting of the Planning Committee. The Chair commented that updates would be reported to future meetings.

AP2 23/18 EXCLUSION OF PRESS AND PUBLIC

There were no items considered in private.

The meeting ended at 8.00 pm

GLOSSARY of Abbreviations used in reports to Area Planning Committees

A

AAP	Area of Archaeological Potential
AGA	Prior Approval: Agriculture (application suffix)
AGN	Prior Notification: Agriculture (application suffix)
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
AT	Advertisement consent (application suffix)

B

BALI	British Association of Landscape Industries
BPN	Building Preservation Notice
BRE	Building Research Establishment

C

CA	Conservation Area (designated area)
CCEASC	KCC Screening Opinion (application suffix)
CCEASP	KCC Scoping Opinion (application suffix)
CCG	NHS Kent and Medway Group
CNA	Consultation by Neighbouring Authority (application suffix)
CPRE	Council for the Protection of Rural England
CR3	County Regulation 3 (application suffix – determined by KCC)
CR4	County Regulation 4 (application suffix – determined by KCC)
CTRL	Channel Tunnel Rail Link (application suffix)

D

DCLG	Department for Communities and Local Government
DCMS	Department for Culture, Media and Sport
DEEM	Deemed application (application suffix)
DEFRA	Department for the Environment, Food and Rural Affairs
DEPN	Prior Notification: Demolition (application suffix)
DfT	Department for Transport
DLADPD	Development Land Allocations Development Plan Document
DMPO	Development Management Procedure Order
DPD	Development Plan Document
DPHEH	Director of Planning, Housing & Environmental Health
DR3	District Regulation 3
DR4	District Regulation 4
DSSLT	Director of Street Scene, Leisure & Technical Services

E

EA	Environment Agency
EIA	Environmental Impact Assessment
EASC	Environmental Impact Assessment Screening request (application suffix)
EASP	Environmental Impact Assessment Scoping request (application suffix)
EH	English Heritage
EL	Electricity (application suffix)
ELB	Ecclesiastical Exemption Consultation (Listed Building)
EEO	Ecclesiastical Exemption Order
ELEX	Overhead Lines (Exemptions)
EMCG	East Malling Conservation Group
ES	Environmental Statement
EP	Environmental Protection

F

FRA	Flood Risk Assessment
FC	Felling Licence
FL	Full Application (planning application suffix)
FLX	Full Application: Extension of Time
FLEA	Full Application with Environmental Impact Assessment

G

GDPO	Town & Country Planning (General Development Procedure) Order 2015
GOV	Consultation on Government Development
GPDO	Town & Country Planning (General Permitted Development) Order 2015 (as amended)

H

HE	Highways England
HSE	Health and Safety Executive
HN	Hedgerow Removal Notice (application suffix)
HWRC	Household Waste Recycling Centre

I

IDD	Internal Drainage District
IDB	Upper Medway Internal Drainage Board
IGN3	Kent Design Guide Review: Interim Guidance Note 3 Residential Parking

K

KCC	Kent County Council
KCCVPS	Kent County Council Vehicle Parking Standards: Supplementary Planning Guidance SPG 4
KDD	KCC Kent Design document

KFRS Kent Fire and Rescue Service
KGT Kent Garden Trust
KWT Kent Wildlife Trust

L

LB Listed Building Consent (application suffix)
LBX Listed Building Consent: Extension of Time
LDF Local Development Framework
LDLBP Lawful Development Proposed Listed Building (application suffix)
LEMP Landscape and Ecology Management Plan
LLFA Lead Local Flood Authority
LMIDB Lower Medway Internal Drainage Board
LPA Local Planning Authority
LWS Local Wildlife Site
LDE Lawful Development Certificate: Existing Use or Development (application suffix)
LDP Lawful Development Certificate: Proposed Use or Development (application suffix)
LP Local Plan
LRD Listed Building Consent Reserved Details (application suffix)

M

MBC Maidstone Borough Council
MC Medway Council (Medway Towns Unitary Authority)
MCA Mineral Consultation Area
MDE DPD Managing Development and the Environment Development Plan Document
MGB Metropolitan Green Belt
MHCL Ministry of Housing, Communities and Local Government
MIN Mineral Planning Application (application suffix, KCC determined)
MSI Member Site Inspection

MWLP Minerals & Waste Local Plan

N

NE Natural England

NMA Non Material Amendment (application suffix)

NPPF National Planning Policy Framework

O

OA Outline Application (application suffix)

OAEA Outline Application with Environment Impact Assessment (application suffix)

OAX Outline Application: Extension of Time

OB106D Details pursuant to S106 obligation (application suffix)

OB106M Modify S106 obligation by agreement (application suffix)

OB106V Vary S106 obligation (application suffix)

OB106X Discharge S106 obligation (application suffix)

P

PC Parish Council

PD Permitted Development

PD4D Permitted development - change of use flexible 2 year

PDL Previously Developed Land

PDRA Permitted development – change of use agricultural building to flexible use (application suffix)

PDV14J Permitted development - solar equipment on non-domestic premises (application suffix)

PDV18 Permitted development - miscellaneous development (application suffix)

PDVAF Permitted development – agricultural building to flexible use (application suffix)

PDVAR Permitted development - agricultural building to residential (application suffix)

PLVLR	Permitted development - larger residential extension (application suffix)
PDVOR	Permitted development - office to residential (application suffix)
PDVPRO	Permitted development - pub to retail and/or office (application suffix)
PDVSDR	Permitted development storage/distribution to residential (application suffix)
PDVSFR	Permitted development PD – shops and financial to restaurant (application suffix)
PDVSR	Permitted development PD – shop and sui generis to residential (application suffix)
POS	Public Open Space
PPG	Planning Practice Guidance
PWC	Prior Written Consent
PROW	Public Right Of Way

R

RD	Reserved Details (application suffix)
RM	Reserved Matters (application suffix)

S

SDC	Sevenoaks District Council
SEW	South East Water
SFRA	Strategic Flood Risk Assessment (background for the emerging Local Plan)
SNCI	Site of Nature Conservation Interest
SPAB	Society for the Protection of Ancient Buildings
SPD	Supplementary Planning Document
SSSI	Site of Special Scientific Interest
SW	Southern Water

T

TC	Town Council
TCAAP	Tonbridge Town Centre Area Action Plan

TCS Tonbridge Civic Society
TEPN56/TEN Prior Notification: Telecoms (application suffix)
TMBC Tonbridge & Malling Borough Council
TMBCS Tonbridge & Malling Borough Core Strategy 2007
TMBLP Tonbridge & Malling Borough Local Plan 1998
TNCA Notification: Trees in Conservation Areas (application suffix)
TPOC Trees subject to TPO (application suffix)
TRD Tree Consent Reserved Details (application suffix)
TRICS Trip Rate Information Computer System
TWBC Tunbridge Wells Borough Council

U

UCO Town and Country Planning Use Classes Order 1987 (as amended)
UMIDB Upper Medway Internal Drainage Board

W

WAS Waste Disposal Planning Application (KCC determined)
WTS Waste Transfer Station

(Version 2/2021)

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Plaxtol
Borough Green and
Long Mill

15 March 2023

TM/23/00550/FL

Proposal: Demolition of existing single storey double garage and erection of new detached 2 storey dwelling with rooms in roof and associated external works.

Location: 1 Bourne Vale Plaxtol Sevenoaks Kent TN15 0QT
Go t/o: [Recommendation](#)

1. Description:

- 1.1 The planning application comprises the subdivision of 1 Bourne Vale and erection of a detached dwelling to east of the existing dwelling. The works include the demolition of the existing side single storey detached double garage.
- 1.2 The submission is for a two storey dwellinghouse with two rear dormer windows and two front rooflights to provide a three-bedroom residential unit on site.
- 1.3 The proposed new build would measure approx. 10.5m deep, which would be in line and does not project beyond the existing front building lines of adjoining properties 1A (east) and 1 & 2 (west), other than the front bay window to the kitchen and the porch canopy by a minimal amount. The dwellinghouse would project a further 3m beyond the existing edge of the rear elevation of adjoining properties to the west and 1.15m deep to the east. With overall width of 6m wide.
- 1.4 The property has an overall height of 8m with pitched/flat tiled roofs. It should be noted that the existing ground level slopes up from east to west. This results in a stagger to the roof line of the proposed dwelling and those either side within the street scene. The proposed ridge height and eaves height would be approximately 1m and 0.3m respectively lower than those at nos.1 and 2, adjacent to the west. These would be approximately 1.1m and 0.44m respectively higher than those at no.1a to the east.
- 1.5 The new build retains a gap of at least 1.5m on either side flank elevations to the east and west boundaries of the site.
- 1.6 A total of 48.2sqm of private rear amenity space would be provided on site. This comprises of 21.8sqm of decking area (500mm high below ground level) and 26.4sqm of rear garden area.
- 1.7 Curtilage parking is proposed – two spaces to serve the proposed dwelling. It should be noted that there are two existing front car parking spaces to the front of no. 1 Bourne Vale.

1.8 The proposal also includes a single storey rear garden shed approx. 3m deep and 2m wide (southeast) to provide a secure cycle storage. A 1.8m high close board fencing around the red boundary around the site. however, this would vary in height, as the existing ground level slopes down from front to rear (north to south).

2. Reason for reporting to Committee:

2.1 At the request of Councillors Wendy Palmer, Mike Taylor, Tim Shaw and James Lark on the planning grounds that the proposal would be “over development, density. The present infrastructure is already failing with sewage flooding the gardens”.

3. The Site:

3.1 The host dwelling is semi-detached, with a single storey side double detached garage (east) located on the southern side of Bourne Vale. The new dwellinghouse would be sited in between 1A (east) and 1 & 2 (west) Bourne Vale. The rear garden backs onto the side boundary of Gaisford, off the Street to the south of the development. A Scots Pine tree is located within the curtilage of Gaisford close to the shared boundary which is not covered by a TPO.

3.2 The site lies within the other rural confines of Plaxtol. Bourne Vale is a residential street, mixed of semi-detached and detached dwellings, where the gaps have been infilled with residential units and extensions to the west and east elevations of a number of properties within the cul-de-sac.

3.3 The site is located within Area of Outstanding Natural Beauty (AONB) and is located within a low flood risk area (1a). There are no TPOs trees or areas located within the application site.

4. Planning History (relevant):

TM/47/10132/OLD grant with conditions 10 January 1947

Layout for four flats in lieu of two cottages.

TM/11/01561/FL Approved 27 July 2011

Demolition of existing garden shed and erection of replacement.

5. Consultees:

5.1 TMBC Environmental Pollution (EP): The Council’s EP department was consulted on this application and recommended that during demolition and construction phases

that hours of noisy works should be restricted to Mondays to Saturdays only and no bonfires on site. If planning permission is granted the informatives could be imposed to remind the applicant of these details recommended by the Council's EH officer.

5.2 TMBC Contaminated Land (CL): No comments.

5.3 TMBC Waste Services (WS): No comments subject to meeting the guidance notes on file (see waste section of this report for full comments and assessment).

5.4 Southern Water (SW): Comments have been received from Southern Water 14.09.23 stating the following:-

- Southern Water would require a formal application to be made for a connection to the public foul sewer by the applicant or developer;
- Advise that Building Control officers should comment on the adequacy of soakaways to dispose of surface water from the proposed development.
- It is possible a sewer not 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.

5.5 If planning permission is granted, informatives would be imposed to advise the applicant of these matters, which sit outside of planning legislation, and to advise that these be addressed before any works are to commence on site. Southern Water are not a statutory consultee for this application, however, given concern raised from neighbours they were consulted to confirm the potential impact upon services.

5.6 TMBC Tree: No objections. See relevant sections of this report for full comments and assessment.

5.7 Parish Council: Letter of objection summarised as follows:

- Overdevelopment of the site, resulting in a density totally out character with, and detrimental to the locality.
- Overbearing effect on neighbouring properties.
- Parking congestion.
- Water drainage issues would increase.
- Increase in light pollution from the proposed rooflights and dormer windows, which are out of keeping with the other properties.

- The large Scots Pine tree rear of the site would suffer damage to its root system by these proposed works.

5.8 4 neighbours were consulted on the application and 22 objection letters were received. The objections can be summarised as follows:

- Concerns of the drainage over split as result of an additional residential property. Strain on the existing main services, electric, water and sewerage.
- The roots of the tree in the adjoining garden to the back of the proposed property would suffer damage. If damaged could weaken an already dangerous tree especially as been shedding into their garden. If weakened it would flatten their house if it fell. Trees in the area with TPO's would be affected by the proposed development.
- Overdevelopment. The building itself is not in keeping with other properties in the road. Sufficient gaps are not retained to the adjacent properties.
- Parking congestion/damage to the road as result of the large delivery lorries entering and existing the site. Traffic hazard.
- Major concerns relate to access for emergency vehicles, fuel supplies and council waste management services.
- Access into Bourne Vale should be a priority, always accessible, safe and convenient.
- Privacy issues and obstruction of their current views.
- No site notice posted around the area.
- Loss of garden space

6. Determining Issues:

Principle of Development:

- 6.1 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. The NPPF at paragraph 12 asserts that it 'does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise'.
- 6.2 The site lies within other rural confines of Plaxtol, where Policy CP13 of the Core Strategy will apply. Policy CP13 requires that development will be concentrated

within the confines of other rural confines including Plaxtol. The proposal would therefore comply with the requirement of CP13 and be acceptable in principle.

- 6.3 The Council cannot presently demonstrate a five year supply of housing when measured against its objectively assessed need (OAN). In the absence of a five year supply of housing, it is necessary to apply the presumption in favour of development as set out in paragraph 11 d) of the NPPF, much of the development plan is out of date for the purposes of determining applications for new housing development. The tilted balance in this case is therefore engaged and so the application should be granted permission unless it is a protected area (MGB and AONB are such areas) or by the harm caused by the application significantly outweigh its benefits.
- 6.4 Paragraph 11 d) of the NPPF sets out that planning permission should be granted unless the application of policies within the Framework that protect areas of assets of particular importance provides a clear reason for refusing the proposed development, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 6.5 Footnote 7 provides a list of those policies that relate to protected areas and assets of particular importance. These include the green belt and areas of outstanding natural beauty. It must therefore firstly be established whether the proposal is acceptable in terms of any impact on the area of outstanding natural beauty, in order to determine whether the presumption in favour of sustainable development applies.

Area Outstanding Natural Beauty (AONB) considerations under 11 d (i):

- 6.6 The application site also lies within an Area of Outstanding Natural Beauty. Policy CP7 sets out that development will not be proposed in the LDF, or otherwise permitted, which would be detrimental to the natural beauty and quiet enjoyment of the Areas of Outstanding Natural Beauty, including their landscape, wildlife and geological interest.
- 6.7 Paragraph 176 of the NPPF is the most relevant national policy and sets out that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. It continues that the scale and extent of development within these designated areas should be limited.
- 6.8 The applicant argues that the proposal is of an appropriate scale and the extent of the development, which would not have a significant impact on the overall open appearance of the landscape and scenic beauty of the AONB, is consistent with the aims of National Policy and the Development Plan. The Council would agree with the applicant as the new dwelling would be infilling a space rather than encroaching elsewhere into the AONB. The new dwelling would conserve the AONB, as the development proposal has been designed to sit alongside the local housing styles within the area. The new dwelling would be of similar footprint, height, bulk and

massing at two storeys in height, which would match and be in keeping with the existing cul-de-sac (mixed of 2/3 storey semi-detached or detached properties).

- 6.9 Therefore, there is no clear reason to refuse the development in accordance with paragraph 11 d (i) of the NPPF with regard to impact upon the AONB.
- 6.10 After carrying out the 11(d)(i) exercise and subsequently concluding that there are no “restrictive policies” in the NPPF which provide a clear reason for refusal, the application must therefore be considered against paragraph 11(d)(ii) of the NPPF and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, which are discussed below.

Design, character and appearance:

- 6.11 Policy CP24 of the TMBCS sets out a number of key objectives in terms of design. It requires that:

“All development must be well designed and of a high quality in terms of detailing and use of appropriate materials, and must through its scale, density, layout, siting, character and appearance be designed to respect the site and its surroundings.”

“Development which by virtue of its design would be detrimental to the built environment, amenity or functioning and character of a settlement or the countryside will not be permitted.”

- 6.12 Policy SQ1 of the MDE DPD is also relevant to design and requires that:

“1. 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.

2. 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.”

- 6.13 Paragraph 130 of the NPPF details 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;...”

6.14 Paragraph 134 of the NPPF is also relevant and sets out that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be given to:

- a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or
- b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

6.15 The National Design Guide 2021 sets out the characteristics of well-designed places and demonstrates what good design means in practice. It forms part of the government’s collection of planning practice guidance and was intended to be read alongside the separate planning practice guidance on design process and tools. Paragraph 56 of the National Design Guide states that:

6.16 “Well-designed places contribute to local distinctiveness. This may include:

- adopting typical building forms, composition, articulation, proportions, features, materials, details, patterns and colours of an area;
- drawing upon the architectural precedents that are prevalent in the local area including the proportions of buildings and their openings;
- using local building, landscape or topographical features, materials or planting types;
- introducing built form and appearance that adds new character and difference to places, with particular attention to how buildings meet the ground and sky;

- creating a positive and coherent identity that residents and local communities can identify with.”

- 6.17 In terms of design the proposal seeks to provide a two-storey detached property with two rear dormer windows. The roof would be pitched with a small flat area at the ridge with two flat roofed rear dormer windows (set in/down from the main ridge and eaves level). The architectural style has been developed to sit alongside and match the neighbouring houses in the cul-de-sac. That being predominantly traditional red brick and clay or concrete tiled dwellings. The design and access statement indicates that the external materials would be a traditional red multi blend brickwork and clay roof tiles. The windows and doors would be white UPVC with aluminium bi-fold doors to the rear elevation and the entrance porched would be timber framed. This outlines that the dwelling would be of matching brickwork to that of the existing neighbouring dwellings, as would the proposed tiling within the cul-de-sac.
- 6.18 The siting of the dwelling respects the existing building line created by the adjacent properties and does not project beyond the front of these adjacent dwellings, other than the minimal projection of the bay window and porch canopy roof. The proposed two storey building would retain gap of at least 1.5m from the side flank elevations to the adjoining properties to the west and east. The new build would have a lower ridge line than that of the host dwelling adjacent to the west, nos.1 and 2, but slightly higher than that of no.1a to the east. The dimensions are mentioned previously in paragraph 1.4. The infill development of this new build would in itself create a subservient development and would not create a terracing effect due to the retained visual gaps between the adjoining properties to the west and east, ensuring the visual continuity of dwellings which is apparent elsewhere in the cul-de-sac. As such, the rhythm of the street-scene would not be harmed as a result of the proposed development.
- 6.19 A total of 48.2sqm of private rear amenity space would be provided on site, not dissimilar in area to those of similar sized dwellings nearby. This space would comprise of 21.8sqm of decking area (500mm high below ground level) and 26.4sqm of rear garden area.
- 6.20 Bourne Vale is characterised by housing, mixed of semi and detached properties, which vary in scale of 2/3 storey. Officers considered that the overall bulk and scale of the dwellinghouse by infilling the gap would be in keeping with the street scene, character and appearance of the surrounding area. It is noted that other infill development has been erected or approved in the street at nos. 1A, 5A, 8A and 9A Bourne Vale, but the most recent approval is Plot 1 Land Adjoining 7 And 8 Bourne Vale (8A) under ref. TM/09/01996/OA and approved details under ref. 11/02324/RD. There are other similar spacings evident in the wider area and a number of extensions in the immediate street scene at nos. 3 & 4, 10, 11 and 12 Bourne Vale.

- 6.21 It is considered that as result of these developments erected or approved, the original intended form and arrangement of Bourne Vale has since been somewhat eroded. As such, the original visual gaps between dwellings have already been reduced to varying degrees.
- 6.22 Given the above, the principle of a residential unit in the area can be supported on character and appearance grounds as the character and appearance of the original development has already been eroded, and the proposed design and materials will mean that the proposal would not be considered detrimental to the local distinctiveness of the area.
- 6.23 The central siting of the dwelling within the plot ensures that the development doesn't give rise to a terracing effect or the impression of overdevelopment. On balance, the siting, scale, form, materials and layout are considered acceptable, which would not appear out of character for the area or the wider locality to warrant refusal on design, scale or overdevelopment grounds. The proposed design would be appropriate for the character of the area and would not detract from the street scene or create any impact on character and appearance of the AONB.
- 6.24 It is therefore considered that a refusal of this proposal could not be justified on scale, massing, design, overdevelopment or density grounds, or in relation to a harmful impact on the wider street scene.
- 6.25 The application therefore accords with the relevant development plan policies and the NPPF in this regard.

Standard of accommodation

- 6.26 The house if assessed against the National Technical Housing Standards all generally have adequate room sizes in terms of floor area, room width, ceiling heights and in terms of Gross Internal Floor Area (GIA) – new Plot is 129sqm for a 2/3 storey 3 bed 6-person dwelling, although the new build is two storeys with loft accommodation at roof level. The total GIAs for the proposed dwelling would exceed the National Standards for 102/108sqm 2/3 storey 3 bed 6-person dwelling. It should be noted that the Council does not have up to date adopted housing spatial standards of its own.
- 6.27 The dwelling has usable garden space. The dwelling will have adequate aspect and where outlook or privacy could be affected by the proximity of another house, the layout of the development reflects that the adjoining houses have been orientated to present only a few modest openings to the neighbour. It is therefore considered that the proposed development would provide an acceptable level of accommodation.

Highway safety and parking provision:

- 6.28 Policy SQ8 of the MDEDPD sets out a number of criteria in terms of road safety and parking. Of relevance to this application are:

“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.”

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

6.29 Paragraph 111 of the NPPF outlines 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.”

6.30 The NPPF at paragraph 112 goes on to advise 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.”

6.31 Kent Highways document IGN3 sets out the adopted standards for parking provision across the Borough.

6.32 On 18th November 2014, the Planning and Transportation Advisory Board of Tonbridge and Malling Borough Council decided to adopt a slightly revised approach to the use of IGN3 when dealing with residential planning applications. The decision taken was that garages (and car barns unless the right to enclose them for use as storage is simultaneously removed by condition) would not form part of the supply-side in any parking provision calculation, irrespective of siting.

6.33 In August 2021 Tonbridge and Malling Borough Council released a position statement in relation to the use of IGN3. In summary, this outlined that the Council

would afford substantially less weight to IGN3 when assessing planning applications. This is because it was considered that the evidence base which determined the number of parking spaces required for each dwellinghouse dated back to 2001 Census data and was therefore out of date. It was also considered that the standards were not privy to the latest national policy (the NPPF and associated material considerations such as the National Design Guide). Therefore, assessments as to these aspects of proposed parking schemes would be focused on the following:

- Individual detail of the development in question;
- Site-specific circumstances; and
- Prevailing locational characteristics of any given case.

6.34 As such, it is accepted that IGN3 is now an aged document and associated evidence base, which means substantially less weight should be afforded to the standards it prescribes. It should be noted that IGN3 still remains a material planning consideration, albeit it carries less weight.

6.35 The application proposes 2 off-street parking spaces and electric charge point. The existing driveway would be replaced with a resin bonded gravel surface and side concrete paving paths to be laid to the side of the property. The adopted parking standards requires that at least 2 off street parking space should be provided for 3-bedroom flats/house.

6.36 It should be noted the existing access arrangement already exists at the adjoining properties nos. 1 and 2 where two existing off-street parking spaces would be retained on site. If planning permission is granted a condition could be imposed to secure a total of 2 off-street parking spaces.

6.37 Given the above, although the garage is being demolished, this would not leave the host dwelling with insufficient parking provision, as set out above. As such, the host property would retain a satisfactory level of parking both according to the adopted parking standards and at a level considered suitable for the area. Therefore, the proposal will not result in a significant adverse impact on parking provision to warrant a reason for refusal on this occasion as the proposal would not result in hazardous on-street parking.

6.38 In addition, the application property has sufficient off-street parking for such a size of dwellinghouse within this area, being two spaces to serve the three-bedroom dwellinghouse.

6.39 The development will adhere to the highways and parking design guidance within paragraph 112 of the NPPF and the development will not result in an unacceptable impact on highway safety, or cause residual cumulative impacts on the road network, in accordance with paragraph 111 of the NPPF.

6.40 Accordingly, the development will comply with the adopted parking standards and current position in relation to parking, therefore adhering to Saved Policy P4/12 of the TMBLP 1998, Policy SQ8 of the MDE DPD and paragraphs 111 and 112 of the NPPF.

Neighbouring amenity/amenity for future occupiers:

6.41 *In relation to the impact of development upon residential amenity, policy CP24 of the TMBCS states:*

“Development which by virtue of its design would be detrimental to... amenity... will not be permitted.”

6.42 Additionally, paragraph 130 (f) of the NPPF advises that planning policies and decisions should ensure that developments:

“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...”

6.43 The Council’s Environmental Protection officer was consulted on this application and recommended that during demolition and construction phases that hours of noisy works should be restricted to Mondays to Saturdays only and no bonfires on site. If planning permission is granted the informatives could be imposed to remind the applicant of these details recommended by the Council’s Environmental officer.

6.44 Officers considered that there is no evidence that there would be increase in light pollution as result of the two front rooflights and the rear dormer windows. Furthermore, concerns have not be made by the Council’s EP officer. The introduction of such windows and the resultant domestic level of light that would be created is not unreasonable for a residential road or this nature.

6.45 It should be noted that Meadowvale, Shorehill, West View and 1 Shrubshall Meadow, off Long Mill Lane are sited more than 37m away from the application site (further northeast). It should also be noted that nos. 3, 5, 10, 11 and 12 Bourne Vale are sited further west and to the north.

6.46 As such, when comparing the existing to the proposed situation, officers considered that the proposed development would not cause unacceptable amenity issues to these local residents, to such a degree as to warrant a reason for refusal.

6.47 The nearer residential properties are no. 1A (east), 1 & 2 (west) and side elevation of Gaisford, Long Mill Lane (south).

6.48 All habitable windows are north and south facing to the proposed new build at ground, first and loft floor levels. One obscured glazed en-suite window and two landing/staircase windows are proposed to the side east flank wall at first and second floor levels. One of the rear dormer windows would be obscured glazed. Also, the

ground floor front WC and first floor front en-suite windows would be obscured glazed (north).

- 6.49 All flank side windows which are at first and second floor levels are secondary windows, if planning permission is granted, a condition could be imposed that en-suite and landing windows are obscured glazed to safeguard local residents from any privacy or overlooking issues.
- 6.50 It is considered that there would be no harmful loss of privacy or overlooking issues to the adjoining neighbours to the west or east or north. It is also considered that rear facing windows facing south would retain a gap of approximately 8.6m to the rear garden boundary with rear garden of Gaisford to the south. These windows to the rear do not directly face the most used part of the rear garden serving Gaisford, and in addition to this the view would be obscured by existing trees and overgrown shrubs to the side boundary of Gaisford, Long Mill Lane (south). Were these trees and shrubs to be removed at any point it is the view that the distance of approximately 8.6m is sufficient alone to protect the amenity of Gaisford as they do not directly face the area immediately to the rear of the property. There are windows in the rear of the adjacent dwellings, 1 and 1a which face the garden to Gaisford so the proposal does not introduce a new relationship, just one that means the new rear facing windows would be slightly closer than existing (due to the deeper footprint), but still in my view, a sufficient distance to prevent undue harm by way of overlooking.
- 6.51 Similarly, no loss of daylight/sunlight or outlook is envisaged due to the siting of the adjacent dwellings to the east and west. In addition, the applicant has shown the BRE 45 degrees line in terms of sunlight and daylight to the adjoining properties to the east and west and both pass the BRE sunlight and daylight test. Furthermore, each rear dormer is set down/in from the existing ridge and eaves of the host building.
- 6.52 In addition, the new two rooflights sited in the front roofslope to the north would not create any direct overlooking or loss of privacy issues, due to their position within the roofslope. They are positioned above eye level and afford views of the sky when open rather than direct line of sight to the opposite dwelling. They would not create a more harmful relationship in terms of views between facing front windows than exists at present within the street.
- 6.53 It is acknowledged that proposed dwelling would project a further 3m deep beyond the existing rear elevation of nos. 1 and 2 Bourne Vale (west), with a gap to flank elevation and side boundary of nos.1 and 2 of 1.5m. Due to the degree of separation from the boundary with nos. 1 and 2 and the pitched roof of the proposed dwelling with an eaves height of 5m, it is not considered that the rear projection of the new build would have a detrimental impact on the residential amenity of this property in terms of loss of daylight or sunlight. As mentioned above the 45 degree rule is

complied with in this regard. Furthermore, the closet windows within the rear elevation of no. 1 and 2 are set away from the shared boundary.

- 6.54 It is acknowledged that proposed dwelling would project a further 1.5m deep beyond the existing rear elevation of no.1a Bourne Vale (east), with a gap to the flank elevation of no.1a of 2.2m. Due to the degree of separation from the boundary with no. 1a with the pitched roof of the proposed dwelling with an eaves height of 5m, it is also not considered that the rear projection of the new build would have a detrimental impact on the residential amenity of this property in terms of loss of daylight or sunlight. As mentioned above the 45-degree rule is complied with in this regard. Furthermore, the closest windows within the rear elevation of no. 1a are set away from the shared boundary.
- 6.55 The overall height and eaves level of the proposed pitched roof would be set down from that of the dwelling to the west. Although the new dwelling would be taller than the dwelling to the east, this would not have an overbearing impact on this dwelling or overshadow their amenities as these dwellings are in line with each other and the rear projection has been assessed in the previous paragraph.
- 6.56 Given the above, it is considered that the proposal would not be overbearing to these nearest residential neighbours to the south, north, west or east to a such a degree as to result in a significant impact on their residential amenity that would warrant a reason for refusal.
- 6.57 As such, it is considered that the overall scheme would not result in any unacceptable amenity issues to these nearer adjoining properties in terms of sunlight/daylight, loss of privacy/overlooking or sense of enclosure or outlook.
- 6.58 Overall, due to the traditional design and prevailing site conditions, the proposed development would not be overbearing or unacceptably harm neighbouring amenities by way of loss of light, sunlight, outlook and privacy. The proposal therefore complies with Policy CP24 of the TMBLP and paragraph 130 (f) of the NPPF.

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 are considered. The application site is located within a low-risk flood area (1) and is therefore appropriate for this form of development.
- 6.60 The application form indicates surface water would be disposed by installing a soakaway for surface water and foul sewage dispose to the main sewer, as detailed on the application form.
- 6.61 The applicant has also indicated that once the project progresses to Building Control Regulation stages, if planning permission is granted, the relevant statutory authority would be consulted and liaised with to ensure a compliant connection is installed as

required under the Building Control Regulations, which is not controlled under the Planning regulations. This is considered satisfactory and can be covered and ensured under Building Regulations. An Informative should however be attached to inform the applicant of this matter. In addition, no concerns were raised by Environmental Protection officers on these matters.

- 6.62 Given the above, officers are of the opinion that a refusal of this proposal could not be justified on drainage grounds, or in relation to a harmful impact on the wider local area, as the drainage works would be covered by other bodies such as Building Control and Southern Water.

Waste:

- 6.63 The proposed site plan indicates that 1 x refuse and 1 x recycle bins would be provided to the front of the property. If planning permission is granted a condition could be imposed for the refuse storage is provided on site, as per the proposed site plan, prior to occupation of new unit on site.

Trees and Landscaping:

- 6.64 Policy NE4 of the MDE DPD specifically relates to development and the impacts upon trees hedgerows and woodland. It states 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 as illustrated on the Diagram. This includes provision of new habitats as part of development proposals.”

- 6.65 Officers acknowledged that local residents have raised concerns that the proposed construction works would result in damage to the Scots Pine tree at Gaisford, The Street to the south of the development site which may result in an increased risk of windthrow. In addition, it should be noted that this tree is not a protected tree or sited within the red line of the application site, or a Conservation Area.
- 6.66 The Council’s Tree officer was consulted on this application and stated that “the tree has been assessed and it has been formally determined that notwithstanding that the top of the Pine has some public visibility given the limited public amenity of the tree, poor form and close proximity to existing structures it is considered that the tree would be inappropriate for inclusion within a new TPO”.
- 6.67 In addition, the applicant submitted land levels information (in the form of existing and proposed sections) as part of the submissions for this application. Drawing 7097 - PD-02 Rev A indicates there will be no alterations, raising or lowering of the existing ground levels within the rear garden south of the new dwelling. The existing lawn would be largely retained and enhanced with a new composite boarded decking area. The existing close boarded fencing would be retained and be adjusted to

provide side access to the rear garden as well as to the garden of nos. 1 and 2 Bourne Vale.

6.68 If planning permission is granted conditions could be imposed to final details of the soft and hard landscaping and the level details as shown on drawing no. 7097 - PD-02 Rev A are retained on site. This is to ensure that the development is carried out at suitable levels in relation to the highway and adjoining land having regard to drainage, gradient of access, the safety and amenities of users of the site, the amenities of the area and the health of any trees or vegetation.

6.69 Given the above, proposal would comply with Policy NE4 of the MDE DPD.

Climate change:

6.70 Paragraph 153 of the NPPF requires Development Plans to take a proactive approach to mitigating and adapting to climate change. It encourages new development to avoid an increase in vulnerability to the range of impacts associated with climate change. Where there are proposals in vulnerable areas care is to be taken to mitigate and consider green infrastructure. In addition, proposals should help to reduce greenhouse gas emissions and increase the use of renewable and low carbon energy.

6.71 The Government has adopted the Future Homes and Building Standards in line with its commitment to achieve net zero emissions by 2050. This seeks to reduce CO₂ emissions from new homes by 75 – 80 % from 2021 standards and new homes will need to be “zero carbon ready”, meaning that no further retrofit work will be necessary to enable them to become zero – carbon homes. The first stage of this transition towards the decarbonisation of buildings came into force on 15 June 2022 via a suite of revised Building Regulations, which require that CO₂ emissions from new build home must be 30% lower than under previous standards. The efficiency levels now required under these regulations would encourage/require the installation of zero- carbon technology and levels of energy efficiency, which would exceed those previously required by the Council under planning policy. Thus, no conditions or informatives are recommended in relation to the incorporation of zero carbon technologies.

6.72 The amended Building Regulations under Approved Document S also require that new developments must include spaces with access to electrical vehicle charging points equal to the number of new dwellings and that cable routes/ infrastructure should be provided to other parking spaces. As detailed above the proposal includes the provision of on EV charge point.

Other Material Planning Considerations:

- 6.73 The Housing Delivery Test January 2022 records that TMBC delivered 63% of the total number of homes required by the Government and there is thus a presumption in favour of sustainable development.
- 6.74 The shortfall in the supply of housing is a material consideration that weighs in favour of the development. The development will deliver 1 new house, as a small but useful contribution to housing land supply as a windfall. Windfall developments are a key component of housing land supply. This is a significant benefit.

Neighbour comments:

- 6.75 Neighbour comments regarding damage to the existing roads at the junction of Long Mill Lane and Bourne Vale via east and existing drainage issues are independent legal/civil issues separate from the planning system. These matters should be taken up with Southern Water and Highways authority. As such, they have no bearing upon the acceptability of the current proposal and cannot be controlled by planning legislation.
- 6.76 Neighbour comments regarding no site notices displayed on site. It should be noted that all adjoining properties that abut the boundaries of the application site were consulted on the above application site, as per the consultation requirements.
- 6.77 Neighbour comments regarding the application should be made invalid, as the box ticked “no” to the question “*Are there any trees or hedges on land adjacent to the proposed development site that could influence the development or might be important as part of the local landscape character?*”. Officers acknowledged that this not a valid reason to make the application invalid. However, please refer to relevant section of this report for full assessment of the adjacent tree by officers.
- 6.78 Neighbour comments that the deeds to the property show parking spaces are visitors and not for permanent car parking spaces. This matter is an independent legal/civil issue separate from the planning system.
- 6.79 Neighbours and Parish Council comments regarding reference to historic refusals in the close namely 8a and 9a Bourne Vale or pre-application advice given at other properties. It should be noted that these refusals were 20 years ago and have since been allowed. In addition, every planning application is assessed on its own merits where local planning and national policies have changed since then and pre-application schemes are planning advice given at the time, which is subject to change, once a formal planning application is made.

Concluding remarks:

- 6.80 Due to the Council’s lack of a 5 year housing land supply the tilted balance is engaged in this case. As the site is affected by a protected designation in the form

of the AONB, the proposal is assessed against paragraph 11 d (i) of the NPPF, the conclusion being that the impact of the proposed development to the AONB would not cause a level of harm that would provide a clear reason to refuse the proposal.

- 6.81 Following this it is necessary to apply consideration under paragraph 11 d (ii) of the NPPF, and whether any potential adverse impacts significantly and demonstrably outweigh the benefits of the proposal when assessed against the rest of the NPPF policies.
- 6.82 The proposed new build would be of an acceptable standard of design commensurate with that evident within the surrounding street scene and in keeping with the surrounding area. No harmful impacts would arise to neighbouring amenity, parking, drainage or highways safety as a result of the proposal.
- 6.83 Given the above, it is considered that on balance the provision of one additional housing unit in this part of the borough serves a clear benefit in terms of the lack of a 5-year housing land supply, with no harm identified to the AONB, character of the area, neighbouring amenities or highway safety. Therefore, it is concluded that the proposal would comply with the Council's policies and the NPPF, and as such a decision should be made in favour of sustainable development.
- 6.84 Accordingly, the application is recommended for approval subject to conditions.

7. Recommendation:

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: 7097-PD-01B Existing site, garage & section plans, 7097-PD-02A Proposed site street scene & site section plans, 7097-PD-03 Proposed plans & elevations, Design and Access Statement 7097-DAS_rev A March 2023.

Conditions / Reason

- 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 The development shall be carried out in accordance with the following approved plans and documents: 7097-PD-01B Existing site, garage & section plans, 7097-PD-02A Proposed site street scene & site section plans, 7097-PD-03 Proposed plans & elevations, Design and Access Statement 7097-DAS_rev A March 2023.

Reason: To ensure the development is carried out in accordance with the approval and to ensure the quality of development indicated on the approved plans is achieved in practice.

3 Prior to the commencement of the development hereby approved, arrangements for the management of any and all demolition and/or 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 properties identified as likely to be affected as to the ongoing timetabling of works, the nature of the works and their likely 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 controls on noise and dust arising from the site with reference to current guidance.
- The development shall be undertaken in full compliance with the approved details.

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

4 Other than demolition of the existing structure, no above ground development shall take place until details of the materials to be used in construction of the external materials of the dwelling hereby permitted have 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 ensure that the development does not harm the character and appearance of the existing building or visual amenity of the locality.

5 The proposed hardstanding shall be constructed of porous materials or provision made to direct surface water run-off from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse/site.

Reason: Development of hardstanding without the suitable disposal of surface water is likely to lead to unacceptable surface water run-off onto land outside the ownership of the applicant.

- 6 Notwithstanding the scheme of hard and soft landscaping and boundary treatment shown on 7097 - PD-02 Rev. A, prior to the first occupation of the dwelling hereby approved a detailed scheme of hard and soft 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: In the interests of visual amenity.

- 7 The development shall be implemented in accordance with the levels details shown on the PROPOSED SITE PLAN STREET SCENE & SITE SECTION drawing 7097 - PD-02 Rev A and other than for the construction of the new decking shown on that drawing there shall be no alterations, raising or lowering of the existing ground levels within the rear garden south of the new dwelling hereby consented.

Reason: To ensure that the development is carried out at suitable levels in relation to the highway and adjoining land having regard to drainage, gradient of access, the safety and amenities of users of the site, the amenities of the area and the health of any trees or vegetation.

- 8 Prior to the first occupation of the development hereby approved, the front bin storage shall be installed in accordance with the approved plan referenced 7097 - PD-02 Rev. A; and shall thereafter be maintained and retained in accordance with the approved details.

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

- 9 Before the dwelling hereby approved is occupied, the area shown on the Proposed Site Plan (Drawing no. 7097 - PD-02 Rev A); as vehicle parking space and vehicle turning area shall be 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 or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space and turning area.

Reason: To ensure that adequate parking and turning facilities are provided and maintained and retained.

- 10 Notwithstanding approved plans, as hereby approved, the first and second floor windows in the east flank elevation shall be fitted with obscured glass and, apart from

any top-hung light, shall be non-opening. This work shall be completed before the property is occupied and shall be retained thereafter.

Reason: To minimise the effect of overlooking onto adjacent properties.

- 11 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and reenacting that Order) no extension, enlargement ,alteration or provision within the curtilage of each of the dwellinghouse as provided within Schedule 2, Part 1, classes A, B, C, D and E other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.

Reason: The Local Planning Authority considers that further development could cause detriment to the scenic beauty of the Area of Outstanding Natural Beauty and for this reason would want to control any future development.

- 12 Prior to the first occupation of the development hereby approved, a car charging point shall be installed in accordance with the approved plan referenced 7097 - PD-02 Rev. A; and shall thereafter be 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.

- 13 Prior to the first occupation of the development hereby approved, the secure cycle rear shed/storage as shown on the approved drawing referenced 7097 - PD-02 Rev. A; and shall thereafter be maintained and retained in accordance with the approved details.

Reason: To ensure that cycle bays are provided and maintained in accordance with the Council's adopted standards

Informatives:

- 1 This permission does not purport to convey any legal right to undertake works or development on land outside the ownership of the applicant without the consent of the relevant landowners.
- 2 If the development hereby permitted involves the carrying out of building work or excavations along or close to a boundary with land owned by someone else, you are advised that, under the Party Wall, etc Act 1996, you may have a duty to give notice of your intentions to the adjoining owner before commencing this work.
- 3 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.

4. In the interests of good neighbourliness, the hours of construction, including deliveries, should be restricted to Monday to Friday 07.30 - 18.30 hours, Saturday 08.00 - 13.00 with no work undertaken on Sundays or Public/Bank Holidays. (These hours will be agreed by condition 3)
5. The disposal of waste by incineration is contrary to Waste Management Legislation and could lead to justified complaints from local residents. It is thus recommended that no bonfires are lit at the site.
6. In the interests of good neighbourliness all vehicles and machinery associated with construction should be parked within the site and not on the public highway in such a manner as to create an obstruction. (This will be controlled by condition 3)
7. You are advised that Southern Water requires a formal application for a connection to the public foul sewer. To make an application visit Southern Water's Get Connected service: developerservices.southernwater.co.uk and please read the New Connections Charging Arrangements documents which are available on their website via the following link: southernwater.co.uk/developing-building/connection-charging-arrangements.
8. You are advised by Southern Water 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. For further advise please email SouthernWaterPlanning@southernwater.co.uk or visit <http://www.southernwater.co.uk>
9. You are advised before making a formal application under Building Regulations to consult the Council's Building Control officers regarding the adequacy of drainage/soakaways to dispose of surface water from the proposed development.
10. The applicant is reminded of the need to comply with the Water Supply (Water Fittings) Regulations 1999 for any development or extension or alteration of the water system on the site. Please advise the relevant statutory water undertaker of the works to be undertaken by completing a Notification of Proposed Works for the Granting of Consent before undertaking works.

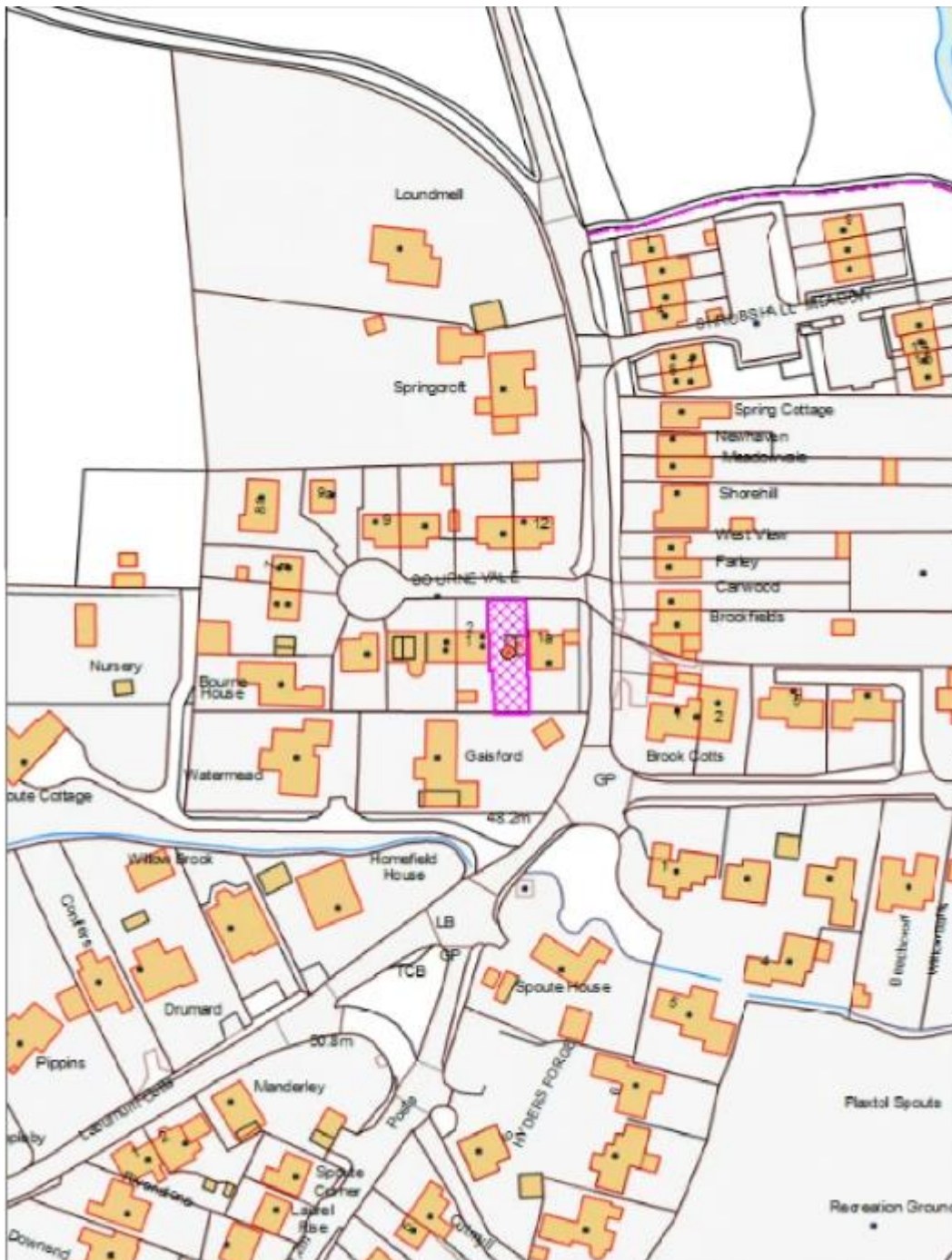
Contact Panyun Chow

TM/23/00550/FL

Demolition of existing single storey double garage and erection of new detached 2 storey dwelling with rooms in roof and associated external works.

1 Bourne Vale Plaxtol Sevenoaks Kent TN15 0QT

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West Malling
 East Malling West
 Malling and Offham

15 May 2023

TM/23/01006/FL

Proposal: Change of use of existing pub to form 2 x 3 bed dwellings including erection of a first floor South West rear extension, two storey South East rear extension and associated alterations

Location: The Scared Crow 79 Offham Road West Malling Kent ME19 6RB

Go to: [Recommendation](#)

1. Description:

1.1 The application seeks full planning permission for the conversion of the pub to two three-bedroom dwellings. This would include the following elements:

- Erection of first floor extension above existing single storey southwest extension.
- Demolition of existing single-storey south section and replacement with a two-storey extension.
- Alterations to the two-storey northwest wing to form new roof with lower roof pitch (ridge height remains unchanged) and
- Alterations to fenestration and doors.



Figure 1 - Proposed elevations

2. Reason for reporting to Committee:

2.1 The application is referred to the Committee as the agent is a Borough Councillor.

3. The Site:

3.1 The site comprises a detached two storey building currently operating as a pub within the urban area of West Malling. It forms the northern portion of an “island” or parcel of land bounded to the north and west by Offham Road and to the south and east by Church Fields. It comprises a detached pub with ancillary residential accommodation above. The southwest portion of the island is made up of a small, attractive green space.

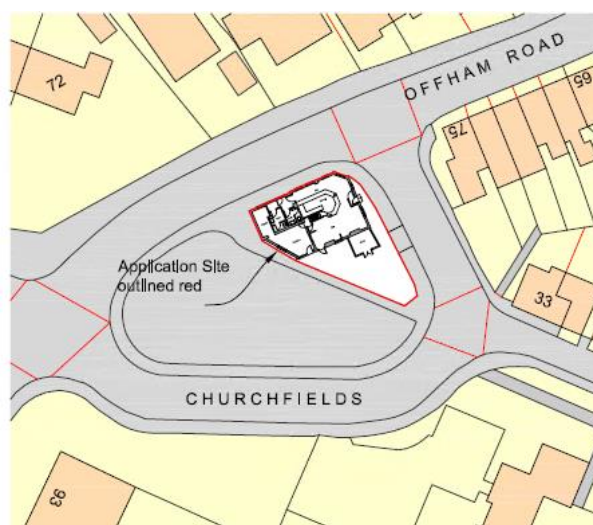


Figure 2 - Location plan

3.2 The site is within West Malling Conservation Area, and this western section is notable for its distinctive residential character featuring medium density development. There are a mix of dwelling types with dwellings to the west and south dating from the 20th Century whilst dwellings to the north are older. These are mostly two-storey in form and appearance.

3.3 The pub was designated an Asset of Community Value (ACV) in 2021.

4. Planning History (relevant):

TM/20/02539/FL Application Withdrawn 5 January 2021
Change of use from existing Public House, to form 2 no 2 storey dwellings with minor additions to rear elevations

5. Consultees:

5.1 Environmental Protection: Due to the longstanding use as a pub and the introduction of landscaped gardens, a watching brief condition is recommended.

5.2 Parish Council (West Malling): Objection for the following reasons (in summary):

- loss of a well-loved pub, which has been designated an Asset of Community Value (ACV).
- significant harm to the heritage value of the site and to historic internal features
- harm to privacy of future occupants and neighbouring residents
- poor quality accommodation for future occupants due to historic fabric
- loss of local employment
- negative effect on the character and appearance of the area
- The statement viability questioned given the success of other similar facilities in this West Malling.

5.3 Conservation Officer – The building scores reasonably as being a historic asset under group value, historic interest and landmark status. It is also reasonably considered a local rarity for West Malling although not rare in regional or national terms. The officer suggests that the building should be considered as a non-designated heritage asset for the purpose of planning . Furthermore, the building makes a positive contribution to the character of this part of the West Malling Conservation Area.

5.4 Private Reps: 0+site notice and press notice/1X/4S/3R. There were eight representations in total and comments are summarised as follows:

5.4.1 Three representations **object** on the following grounds:

- Loss of the pub, which is an asset of community value, to provide private housing
- Increased pressure for on-street parking and impact upon privacy
- Harm to heritage value of the site.
- Overdevelopment of the site.
- Lack of parking.
- Concerns expressed about the statements in the viability assessment as follows:

- 1 The business could be profitable with suitable management.
- 2 Customer base is increasing. There are a number of new developments being constructed in the area and
- 3 West Malling can sustain a number of successful hospitality venues in the village as people come from neighbouring villages/towns.

5.4.2 Four representations **support** the proposal on following grounds:

- The business owner should be allowed to sell the business in the face of difficult trading circumstances.
- There are other facilities in the area to support local users.
- The proposal will reduce pressure for on-street parking.

5.4.3 A further **general** comment has been received stating that whilst the business would be missed, this shouldn't result in objections to the change of use.

6. Determining Issues:

6.1 Under the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the Local Planning Authority is required to determine planning applications and other similar submissions in accordance with the Development Plan in force unless material considerations indicate otherwise. The Development Plan currently in force for this area comprises the Tonbridge and Malling Local Development Framework Core Strategy (TMBCS) adopted in September 2007, the saved policies of the Tonbridge and Malling Borough Local Plan 1998 (TMBLP), Development Land Allocations DPD (DLA DPD) adopted in April 2008 and the Managing Development and the Environment DPD (MDE DPD) adopted April 2010. The National Planning Policy Framework ("NPPF") and the associated National Planning Practice Guidance ("NPPG") and National Design Guide are important material considerations.

Principle

6.2 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 (2023) 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.

6.3 In this case, the proposal is within a Conservation Area, which is a designated heritage asset and therefore one of the protected assets to which paragraph 11(d)i. would apply. As such, if the proposal results in harm to the Conservation

Area, the presumption in favour of residential development would not apply. Similarly, the presumption would be disengaged if the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

- 6.4 Policy CP12 of the Tonbridge and Malling Borough Core Strategy (“TMBCS”) sets out that residential development and proposals for conversions or changes of use will be permitted in Rural Service Centres. This policy accords with the aims of the NPPF to maximise opportunities for the supply of housing in appropriate locations that can contribute towards the supply and maintain and enhance the vitality of existing communities. The policy is up-to-date, and the proposed development broadly accords with these aims and the requirements of this policy. Thus, there is no objection in principle to the development.

Design and character

- 6.5 Paragraph 130 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.
- 6.6 Development of poor design that fails to reflect local design policies and government guidance on design should be refused as set out in paragraph 134 of the NPPF.
- 6.7 Policy CP24 of the TMBCS seeks to ensure that all development is well designed and respects the site and its surroundings. This aim is echoed in paragraph 58 of the NPPF which seeks to ensure that development will function well, create attractive, safe places in which to live and work, optimise the potential of the site, respond to the local character of the surroundings and be

visually attractive. In addition, policy SQ1 of the MDE DPD requires development to reflect the local distinctiveness, condition and sensitivity to change of the local character areas. These policies are broadly in conformity with those contained within the Framework which relate to quality of new developments.

- 6.8 The existing building makes a positive contribution to the character and appearance of the area due to its current architectural design and its isolated position arising from its setting within the island. The proposal would replace an existing rear extension with a larger extension which is more in keeping with the overall character and design of the existing building. Similarly, extensions and alterations to the southwest range of the building would be generally sympathetic in form and appearance to the existing building. Although the proposal would lead to a more domestic appearance to the building, this would not appear out of character within this residential area which features a degree of variation in the design, character and form of the area.
- 6.9 The proposal would leave a relatively small space around the building within the site which would not appear, in this instance, unduly cramped given the existing density of building within the site and the open space around the site within this “island” setting. This setting would ensure a degree of openness around the building whilst retaining its prominent position within the site.
- 6.10 For the above reasons, no objection is raised in relation to the impact upon the street scene or character of the surrounding area.

Conservation Area and Heritage

- 6.11 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
- 6.12 Paragraph 199 of the NPPF requires that great weight should be given to the conservation of a designated heritage asset, the weight given should be proportionate to the importance of the asset. Paragraphs 200-202 set out that heritage assets are irreplaceable, and any harm or loss should require clear and convincing justification.” Less than substantial harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use as set out in paragraph 202 of the NPPF.
- 6.13 The site is situated at the western side of the West Malling Conservation Area, a designated heritage asset. The Conservation Area Appraisal noted the residential character of this area with dwellings of varied form and comprising a diverse range of traditional building materials. Generally, “[t]he unity comes from the siting of the dwellings rather than their appearance” and the enclosure of front garden spaces. The Scared Crow is identified as an interesting element at the entrance to the Conservation Area from along Offham Road.

- 6.14 The contribution of the pub to the conservation area arises from its architectural interest and prominence from the street scene. Although the external appearance of the building would be altered, this would not adversely impact its contribution to the appearance of the conservation area. The extensions and alterations would be in keeping with the general character and design of the existing building, and the more domestic appearance would not appear incongruous with the residential character of the surrounding area in general. The resulting development would remain an interesting architectural feature at this gateway to the conservation area. Thus, the proposal would conserve the historically significant contribution of the building to the designated heritage asset.
- 6.15 The Parish Council has noted the heritage significance of the building in architectural and cultural terms. Having assessed the site against the criteria detailed in guidance from Historic England on identifying non designated heritage assets¹, the Conservation Officer has suggested that the building meets the criteria for the following reasons:
- Group value: Although of earlier origin than most neighbouring development, the building forms part of a gradual westward expansion of the village in the 20C, and it makes a positive architectural contribution within this group.
 - Historic interest: The building has some historic interest in its connection to the national increase of public houses at the time of its construction and its association with the expansion of the village, including its social/communal use in this context.
 - Landmark status: The building is prominent in the street scene as it is set at a bend in the road, isolated within its own space and close to the edge of the village. This lends some landmark status, but it is not considered particularly high.
- 6.16 A non-designated heritage asset is not subject to statutory protection which applies to listed buildings and conservation areas. Nevertheless, paragraph 203 of the NPPF states that the effect of development upon non-designated heritage assets should be taken into account and a balanced judgement will be required with regard to the scale of any harm or loss and the significance of the heritage asset.
- 6.17 As noted, the proposal would not harm the overall character of the building or its contribution to the surrounding conservation area. Therefore, the proposal would not affect the group value or landmark status of the building referenced by the Conservation Officer. However, the proposed change of use would result in some diminution of its historic interest as a pub and its visible link to the

¹ Historic England 2021 Local Heritage Listing: Identifying and Conserving Local Heritage: Historic England Advice Note 7 (Second Edition)

development of these facilities within communities. Having regard to the assessment regarding the viability of and need for the pub within the next section of this report, it is not considered on balance that this minor harm would give rise to an objection on the grounds of the impact upon the non-designated heritage asset. The change of use would ensure that there remains a continued viable use for the building, which would ensure that its positive contribution to in relation to the group value and landmark status of the building is preserved.

Loss of community facility

- 6.18 The Scared Crow is designated as an Asset of Community Value (ACV) as set out in the Localism Act 2011, which seeks to assist local communities to preserve buildings or land of importance to community social well-being by giving the community the chance to bid to buy the asset. Whilst this does not require that the landowner must retain the use or sell the property to the community, the Council has determined the facility to have contributed to the social well-being and interests of the local community and could continue in this function. In this case, the Council considered the pub to be of “community value” serving as a “locals pub”, bringing together various members of the local community and furthering “social wellbeing.” Moreover, the assessment of the ACV nomination noted that the Parish Council had indicated that it would be interested in running the property as a community-run pub, thereby suggesting that a continued community use could be a realistic prospect.
- 6.19 The ACV designation requires that notice of intended disposal must be served to the Council upon which there is a moratorium period to allow community interest groups to be treated as a potential bidder. In this case, notice of disposal was served on 18 January 2022. No community interest was received, and the moratorium on disposal has ended.
- 6.20 Notwithstanding the completion of the moratorium period, policy CP26 of the TMBCS sets out that proposals which would result in the loss of sites and premises currently or last used for the provision of community services or recreation, leisure or cultural facilities should only be permitted under certain circumstances. Of these only c) may be applicable, and this requires that the applicant “proves, to the satisfaction of the Council, that for the foreseeable future there is likely to be an absence of need or adequate support for the facility.”
- 6.21 A viability assessment (VA) has been submitted in support of the application for the change of use to a residential use. This sets out the market context for the pub operation and the trading conditions for the current business operation and the sector generally. In addition, information has been submitted to detail the valuation and marketing of this site. This information has been considered by a consultant engaged by the Council.

- 6.22 The VA states that The Scared Crow has traded as an owner operator business and free house offering food and drink since 2004. Under the current management, attempts have been made to improve trade, but the business is marginally viable. The VA details local competition and notes that there are five other pubs serving West Malling in addition to a local club (Malling Town Club) and licensed restaurants. The decline in trade for this pub is likely to have been caused by the changing needs and requirements of the local population and significant increases in competition from other outlets for the same business.
- 6.23 The letter prepared by Christies provides details of the marketing of the pub in 2022 and states that the value was based on other comparable sales within the region and was founded on their experience within the pub sector. There has been little interest from prospective buyers who wish to continue the pub operation. Although one offer was received (and rejected as too low by the applicant), this offer did not come from a party seeking to continue the pub operation.
- 6.24 The Council's consultant has reviewed the pub operation and the trading context. The review generally agrees with the findings of the VA and concludes that it is difficult for the pub to compete given the size of the building and the lack of parking. It is marginally viable. In terms of the marketing exercise, the consultant has suggested a market value 17% lower than the marketing price sought in 2022. Whilst this variance is not insubstantial, it is noted that the Council's valuation is more recent and therefore reflective of the impact of continuing challenges faced by the sector and the difficulties with commercial finance in the intervening period.
- 6.25 For these reasons, it is considered that the application has satisfactorily established a lack of need and support for its continuance on site. The loss of the pub and community facility would meet exception criteria c) of Policy CP26, and the proposal would therefore result in an alternative viable use for the building.

Neighbour amenity

- 6.26 The proposed development would extend the building and form two residential dwellings. The proposed dwellings would be 12-18m from the nearest dwellings along Offham Road (nos. 68, 70 and 75). Given the position of the dwellings within this central island, the proposal would not result in a loss of light, outlook or privacy which would warrant an objection on the grounds of the impact to neighbouring amenity.
- 6.27 Furthermore, there would be no greater noise or nuisance impact arising from the proposed residential use when compared to the existing commercial use. However, the construction activity could result in some temporary disturbance

given the setting of the site. A construction management plan would be required by condition to ensure that this is adequately considered and mitigated.

Living conditions

- 6.28 The National Design Guide (2021) sets out that high quality design includes the provision of satisfactory living conditions for future occupiers. The proposed internal habitable accommodation would be suitable for family sized dwellings, and the external amenity space would be suitable.
- 6.29 These three bedroom five person dwellings would measure 85.3m² and 105m². Dwelling 1 would be slightly smaller than the minimum size recommended in the Technical guide – Nationally described space standards. Although it is a useful reference guide when evaluating the quality of habitable accommodation, the Local Plan does not require compliance with the standard. As such, a shortfall of less than 8m² relative would not be sufficient to warrant an objection.
- 6.30 With respect to outdoor amenity space, the dwellings would include small gardens which would be small relative to the family sized accommodation. Nonetheless, the space shown would offer outdoor space for amenity and domestic activities. Moreover, the dwellings would be directly adjacent to an open space to the side. For these reasons, it is not considered that an objection is warranted in this instance.

Highways and parking

- 6.31 The application site does not include any access from the highway. However, it is considered that construction activity could result in a temporary safety and capacity issue given the lack of on-site parking and the urban context. As such, a construction management plan should be required to ensure that this activity is conducted without adverse impact upon the local highway network.
- 6.32 The proposal does not include any on-site parking contrary to the adopted parking standards to residential dwellings. Although it is noted that there is pressure for on-street parking, the pressuring associated with the existing use as a pub would generate a higher parking requirement than the proposed residential use. Furthermore, the site is within an established settlement area less than 400m from the centre of West Malling and its High Street with access to services and public transport. As such, no objection is raised in this instance to the lack of on-site parking provision.
- 6.33 In order to promote sustainable transport, cycle storage should be required and secured by condition.

Biodiversity

- 6.34 Policy NE2 of the MDE DPD seeks to protect, conserve and enhance the biodiversity of the borough, in particular priority habitats, species and features. The restoration and creation of new habitats will be pursued. Policy NE3 of the MDE DPD further states that development that would adversely affect the biodiversity will only be permitted if appropriate mitigation and/or compensation measures are provided within the site. Proposals 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.
- 6.35 The site is largely occupied by the building itself, with limited external ground. Nevertheless, the proposal provides the opportunity to secure some ecological enhancements and biodiversity net gain, for example with the inclusion of bird boxes and adequate soft landscaping. This would be secured by condition. On this basis, no objection is raised in relation to Policy NE3 of the MDE DPD or paragraphs 174 and 180 of the NPPF.

Climate change

- 6.36 Paragraph 153 of the NPPF requires Development Plans to take a proactive approach to mitigating and adapting to climate change. It encourages new development to avoid increase vulnerability to the range of impacts associated with climate change. Where there are proposals in vulnerable areas care is to be taken to mitigate and consider green infrastructure. In addition, proposals should help to reduce greenhouse gas emissions and increase the use of renewable and low carbon energy.
- 6.37 The Government has adopted the Future Homes and Building Standards in line with its commitment to achieve net zero emissions by 2050. This seeks to reduce CO₂ emissions from new homes by 75-80% from 2021 standards, and new homes will need to be “zero carbon ready”, meaning that no further retrofit work will be necessary to enable them to become zero-carbon homes. The first stage of this transition towards the decarbonisation of buildings came into force on 15 June 2022 via a suite of revised Building Regulations, which require that CO₂ emissions from new build homes must be 30% lower than under previous standards. The Building Regulations relevant sections are:
- Part L (Conservation of Fuel and Power) Volume 1 Dwellings;
 - Part F Ventilation;
 - Part O Overheating;
 - Part S Electric Charging points.

- 6.38 The efficiency levels now required encourage the installation of zero-carbon technology through Building Regulations. Thus, no conditions or informatives are recommended in relation to the incorporation of zero carbon technologies.
- 6.39 The amended Building Regulations under Approved Document S also require that new developments must include spaces with access to electric vehicle charging points equal to the number of new dwellings and that cable routes/infrastructure should be provided to other parking spaces. Where charging points would have previously been secured by condition, this is no longer reasonably required.

Conclusion

- 6.40 The proposal would contribute a net gain of one additional dwelling (taking into account the owner occupation of the upper floor). Whilst not a substantial contribution, the windfall gain comes at a time when the Council cannot demonstrate a five-year housing land supply. As such, this is a positive benefit to which moderate weight must be attached.
- 6.41 The proposal would conserve the Conservation Area and would not lead to harm in relation to the other policy considerations within local and national policy. The loss of the community facility is regrettable, but the continued operation as a pub has been shown to be non-viable, the proposal would secure a viable use for the building, and no bids were received under the AVC process from the community to take over the running of the pub.

7. Recommendation:

7.1 Grant planning permission subject to the following conditions:

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

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

- 2 The development shall be carried out in accordance with the following approved plans/documents:

Proposed Elevations SK 02C dated 21.07.2023, Email ADDL INFO RE ACCOUNTS & OFFERS dated 18.08.2023, Planning Statement dated 12.05.2023, Existing Plans and Elevations S 01B dated 12.05.2023, Proposed Elevations SK 02C dated 21.07.2023, Other Marketing letter dated 12.05.2023, Viability Assessment dated 12.05.2023, Proposed Floor Plans SK 01E dated 15.05.2023,

Reason: To ensure the development is carried out in accordance with the approval and to ensure the quality of development indicated on the approved plans is achieved in practice.

- 3 No above ground development, excluding demolition works, shall take place until details and samples of 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 Prior to the commencement of the development hereby approved, a Construction Management Plan shall be submitted to and approved by the Local Planning Authority. The Plan should set out arrangements for the management of any and all demolition and/or construction works and shall include (but not necessarily be limited to) the following:

- (a) 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;
- (b) 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;
- (c) The specific arrangements for the routing and parking of contractor's vehicles around the site during construction and any external storage of materials or plant throughout the construction phase.
- (d) Temporary traffic management/signage
- (e) Provision of measures to prevent the discharge of surface water onto the highway
- (f) 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
- (g) The controls on noise and dust arising from the site with reference to current guidance.

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

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

- 5 Prior to the first occupation of the development hereby approved, details of the secure cycle storage facilities shall be submitted to and approved in writing by the Local Planning Authority. The approved cycle storage shall be completed prior to the first occupation of the development, and thereafter maintained and retained in accordance with the approved details.

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

- 6 Prior to the first occupation of the development permitted, an ecological strategy shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented prior to first occupation and retained thereafter.

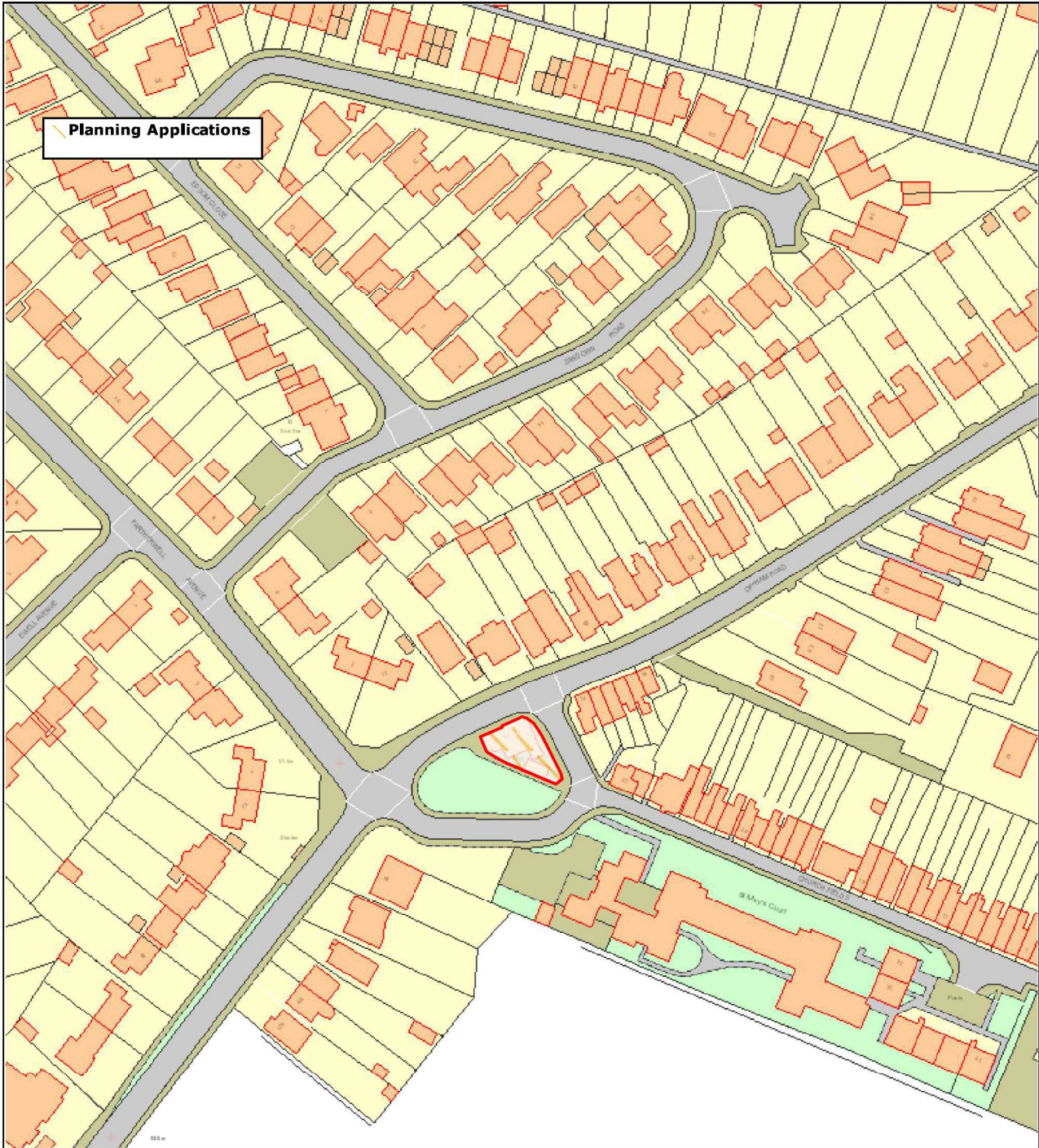
Reason: To conserve and enhance the natural environment.

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 In the interests of good neighbourliness the hours of construction, including deliveries, should be restricted to Monday to Friday 07.30 - 18.30 hours, Saturday 08.00 - 13.00 with no work undertaken on Sundays or Public/Bank Holidays. This should be reflected in the Construction Management Plan required by condition 4.
- 3 In the interests of good neighbourliness all vehicles and machinery associated with construction should be parked within the site and not on the public highway in such a manner as to create an obstruction.
- 4 The disposal of waste by incineration is contrary to Waste Management Legislation and could lead to justified complaints from local residents. It is thus recommended that no bonfires are lit at the site.
- 5 Tonbridge and Malling Borough Council operate a two wheeled bin and green box recycling refuse collection service from the boundary of the property. Bins/boxes should be stored within the boundary of the property and placed at the nearest point to the public highway on the relevant collection day.

Contact: Alda Song

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Planning Applications 23/01006/FL

Scale: 1:1250



Tonbridge & Malling Borough Council
 Gibson Building, Gibson Dr
 Kings Hill, West Malling
 ME19 4LZ
 Tel.: +44 1732 844522



Date: 23/11/2023 16:41

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Kings Hill Kings Hill	29 March 2021	TM/21/00881/OA
Proposal:	Outline Application: Development of up to 65 dwellings (all matters reserved other than access)	
Location:	MOD Land South of Discovery Drive Kings Hill West Malling Kent	
Go to:	Recommendation	

1. Description:

- 1.1 Outline planning permission, with all matters reserved for future considerations with the exception of access is sought for the following development.
- Residential development of up to 65 dwellings/units
 - Target of 40% affordable housing (subject to viability) including first homes and a policy compliant tenure and dwelling mix
 - Designated on-site Childrens playspace (subject final location on site)
 - Ecological enhancements and adherence to 10% biodiversity net gain on site or off-site via biodiversity mitigation to enhance cumulative high ecology standards.
 - Enhanced Landscaping, sustainable drainage systems and protection of on-site species and adjacent ancient woodland
 - Footpath and cycle pathways within the site and connecting to adjacent Clearheart Lane.
 - Site accesses and associated highway improvements including enlarged passing points from Clearheart Lane to the site.
- 1.2 As the application is in outline form essentially this report is dealing with the principle of the development with all details, except for the general quantum of development and the means of access reserved for future consideration and subject to approval of the outline planning application, subsequent planning applications.
- 1.3 Whilst all matters are reserved (except access) ecology and biodiversity considerations have been examined and assessed in greater detail and are expanded in greater detail in the committee report. Some of the submitted plans identify key development parameters against which future reserved matters applications will be considered against and as such they would constitute approved plans should consent be issued, whereas other plans are submitted

purely for informative purposes to illustrate how a scheme could be developed. These plans include the following,

1.4 The plans below shall form part of the approved plans.

Parameter Plan 1 - Extent of development (Ref CL-16410-01-005 Rev E)

Parameter Plan 2 - Heights (Ref CL 16410-01-007 Rev G)

Parameter Plan 4 - Landscape (Ref CL-16410-01-009 Rev H)

Proposed access (CL-16410-01 006 Rev G)

Site Access Arrangement (Ref R-19-0045-001 Rev B – Dated 20-05-20)

Site Plan (Ref CL 16410-01-001 Rev D)

1.5 The following plans are for informative purposes only:

Parameter Plan 3 – Density (Ref CL 16410-01 008 Ref G)

Illustrative Masterplan (Ref L16410/01-017 Rev B dated August 2022)

1.6 In addition to the approved and informative plans, accompanying reports have been submitted to support the application including the following relevant reports

Arboricultural Impact Assessment (Dated November 2021)

Archaeological Desk-Based Assessment (Dated 9th June 2020)

Bat Survey Report (Dated September 2022)

Ecological assessment (Dated September 2022)

FRA (28917-RP-SU-001 - Dated 8 march 2021)

PEA Preliminary ecological appraisal (Dated November 2018)

Transport Statement (Dated March 2021 prepared by Evoke)

Ecological assessment (Dated September 2022)

Sustainability Statement and Energy Strategy (Ref Dated March 2021 Ref 28917-RP-SU-001)

Phase 1 Contaminated Land & UXO Assessment (Dated 18/10/2023 – Ref 8917-HML-XX-XX-RP-U-870001)

- 1.7 Each report listed above provides an overview of the material matters of the relevant subject and has been assessed by specialist officers. Each report has a differing significance applied in regard to the final development scheme.

2. Reason for reporting to Committee:

- 2.1 The outline planning application has been subject to significant interest from the local community and subject to a call in by Cllr Chris Brown (Dated April 2021).

3. The Site:

- 3.1 The site is a designated site known as F2 (f) (Kings Hill) in the development Land Allocations DPD (adopted April 2008). The following description was provided,
- 3.2 *Kings Hill - (65 dwellings), subject to: provision of affordable housing in accordance with Core Policy CP17(1); provision of on-site open playing space or a contribution to the provision or enhancement of open space provision elsewhere at Kings Hill; provision of footpaths, cycle and bridle routes linking with existing and/or proposed routes at Kings Hill; a contribution towards community and leisure facilities at Kings Hill; the retention of important trees on the site and a substantial woodland margin adjacent to the countryside to preserve the landscape setting and screen the development area; and any necessary mitigation measures identified as a result of an archaeological assessment*
- 3.3 The site is formed of an area of land located between Clearheart Lane to the north, Teston Road to the east and Ketrige Lane (Track) to the south. The site is undeveloped land with mature trees within the settlement confines of Kings Hill. Historically the site formed part of the airfield and evidence of hardstanding on site points to the previous use. Confirmed on the 5th of July 2021, three individual and seven groups of trees and one woodland area benefit from a Tree Preservation Orders (TPOs) designation. There are also ancient woodlands to the north, east and south of the site. The ancient woodland to the south of the site (known as Cattering Wood) covers a substantial area and designated as a local wildlife site.
- 3.4 Allotments and playing fields are located to the north-east of the boundary site. The principle Kings Hill urban development is located to the west of the site. The east side site boundary joins the Metropolitan Green Belt. The Wateringbury Conservation Area lies about 175m to the south.

- 3.5 The site falls within major ground water aquifer intermediate vulnerability zone and is located upon a principle aquifer. The site is also within the Archaeological Notification Area.

The site is a total of 3.2 hectares in area and is 213m away from the nearest public right of way (off Teston Road). The site is within Flood Zone 1 but it is within an aquifer designation bedrock (discussed further in the body of the report).

4. Planning History (relevant):

TM/10/03340/OA Application Withdrawn 30 March 2011

Outline Application for the provision of 64 dwellings (2, 3 and 4 bedroomed) with associated roads, footpaths, parking and landscaping, including the retention and management of associated woodland

TM/13/00697/TRD Application Not Proceeded With 13 March 2013

Coppice twin stem Chestnut close to boundary with 3 Bancroft Lane

TM/18/02950/FINF informal letter answered 22 February 2019

Residential development

TM/20/01401/OA Application Withdrawn 11 January 2021

Outline Application: development of up to 65 dwellings (all matters reserved other than access)

TM/21/00876/PPA 24 March 2021

PPA in relation to full planning permission for the development of up to 65 dwellings (all matters reserved other than access)

5. Consultees:

- 5.1 Kings Hill Parish Council: objected on the following grounds:

- Strain on local services and infrastructure;
- Unacceptable harm to the character and appearance of the area and visual amenity;

- Unacceptable impact on the safety of the highway network;
- Harmful impact on the residential amenities of the occupants of properties along Clearheart Lane due to increase in vehicular movement and noise levels; and
- Adverse impact on the protected species.
- Loss of habitat and biodiversity
- Harm to the trees and woodland
- Lack of compliance with climate change strategy
- Negative impact on the tranquillity of the area

5.2 Teston Parish Council: Objected due to impact on the traffic movement (in particular the incorporation of the emergency access through to Ketrudge Lane). Requested permission to speak at the Planning Committee meeting.

5.3 Environment Agency: Following review of the submitted Phase 1 Contaminated Land & UXO Assessment and subject to planning conditions the EA have no objection to the outline application.

5.4 Kent Fire & Rescue Service: Considered the off-site access requirements of the Fire & Rescue Service have been met. Commented that on-site access is a requirement of the Building Regulations 2010 Volume 1 and 2 and must be complied with to the satisfaction of the Building Control Authority who will consult with the Fire and Rescue Service once a Building Regulations application has been submitted if required.

5.5 Waste Services: No details of refuse storage have been provided with the application. The refuse storage and servicing would form part of the reserved matters planning application.

5.6 Housing Services: Required 40% affordable housing provision (70/30 tenure split; 70% affordable homes for rent and 30% intermediate) and confirmation of the affordable housing provision including the tenure and property type and size mix. The provision should be reflective of the units across the development including a range of all the sizes and types of properties as outlined in the indicative mix.

5.7 Environmental Protection: Raised concerns that the applicant will need to consider the potential for noise from the sports pitches located to the north-east of the application site to affect the development. Recommended the following informative:

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 Holidays.

Comments were also raised that due to the site once forming part of former West Malling Air Field that there is the possibility of contamination being present on site and therefore the standard contamination planning conditions should be imposed.

5.8 KCC Flood and Water Management: Raised no objection to the principle of the proposed development and recommended the following:

- Any detailed design work shall be based upon site specific infiltration testing results that reflect the proposed invert level of the drainage features. The infiltration tests should also be in accordance with published guidance such as BRE365:2016.
- Underground services, such as foul sewers, are routed outside of areas of permeable paving or cross it in dedicated service corridors, particularly where sewers will be offered for adoption.
- At the detailed design stage, the drainage system modelled using 2013 FeH rainfall data in any appropriate modelling or simulation software should be provided. Where 2013 FeH data is not available, 26.25mm should be manually input for the M5-60 value, as per the requirements of the latest KCC drainage and planning policy statement (June 2019).
- Conditions for details of surface water drainage should be imposed.

5.9 KCC Ecology: The ecological officer is satisfied with the ecological surveys which provide a reasonable understanding of the ecological interest of the site with an Ancient Woodland buffer of 15m proposed. AW buffer area should be provided between the proposed dwellings and gardens.

Broad recommendations for the biodiversity mitigation have been provided within the report but a detailed mitigation strategy has not been submitted to demonstrate that the outlined mitigation can be implemented nor does the submitted site plan clearly demonstrate that the onsite mitigation requirements will be carried out.

As part of the mitigation strategy the following is proposed:

- Phased clearance of vegetation within the site to avoid impacts on breeding birds and Dormouse
- Reptile translocation to the south of the site.
- Retention/enhancement of a 15m woodland buffer along the eastern boundary
- Retention/enhancement of the woodland to the north and south of the site

- Active management of the woodland to the south of the site
- Sensitive lighting strategy
- Creation of woodland habitat

Further details on the mitigation and on-site biodiversity are addressed in the relevant section of the committee report and the imposition of appropriate conditions.

5.10 KCC Highway – Raised no objection. Referred to the previous comments submitted for the previous application 20/01401/OA. In addition, that made the following comments:

- Swept path analysis demonstrating the suitability of the route for a fire appliance has also been provided.
- Provision of the emergency access also continues to meet KCC Highways access requirements as set out in the Kent Design Guide.

5.11 KCC Strategic Development and Place – the proposed development will have an additional impact on the delivery of its services, which will require mitigation either through the direct provision of infrastructure or the payment of an appropriate financial contribution. Distribution of financial contribution:

- Primary Education- £351,828.10
- Secondary education - £363,167.35
- Secondary Land - £311,088.95
- Special Education Needs - £36,388.95
- Community Learning - £2,223.65
- Integrated Children's Services - £4,813.25
- Library - £4,070.95
- Adult Social Care - £11,757.20
- Waste - £3,380.

5.12 Kent Police: Recommended a condition for Crime Prevention Through Environmental Design (CPTED) measures and referred to the Secured By Design (SBD) Homes 2019 initiative.

5.13 Woodland Trust: Objected due to the potential damage and deterioration of Cattering Wood, a designated ancient semi-natural woodland area, proximity of the proposed development to the ancient woodland and the proposed access

road through the buffer zone. The woodland trust recognise the implementation of a 15m buffer zone in line with the Natural England's advice is policy complaint. However, the Woodland Trust consider the buffer area is not a sufficient size for the proposed development and recommended a buffer zone of at least 30m and planting and screening of the buffer zone before the construction of the development. In particular, their concerns are:

- The impact of the increased recreational activity on vegetation and breeding birds,
- Noise, light and dust pollution during construction and use of the development
- The impact of the increased traffic and additional traffic emissions
- The impact of the quality and quantity of surface run-off water
- Development can be potential source for non-native and / or invasive plant species

5.14 Officer comment regarding the Woodlands Trust concerns. Officers note the retained objection but the development meets Natural England requirements and the 15 metre buffer zone would form part of a planning condition.

5.15 A site notice was displayed on the 13-04-21 and an advert was published in the Kent messenger on the 15-042021. A total of 1,464 surrounding addresses were notified by letter.

5.16 486 representations objecting to the application were received raising the following issues (summarised):

- The proposal would harm the nearby ancient woodland and habitats of protected species including adders, slow worms and bats.
- The proposal would result in loss of the green amenity space enjoyed by the locals and would be detrimental to the countryside character of the area and well being of the locals.
- The site is outside the established boundary of Kings Hill and functions as a landscape buffer which has been used for recreational purposes between the estate and the surrounding farmland.
- The proposal is not eco-friendly and would result in cramped form of development and an overdevelopment of the site.
- The proposed development would be out of character with the area and does not provide adequate open space.
- The proposal would harm the protected trees and replacement trees would not be enough to mitigate the net biodiversity gain resulting from the proposed development.

- Many of the trees which would be removed to allow the development are healthy.
- If the proposal is allowed, it would set a precedent for applications to develop the remaining natural spaces around Kings Hill.
- Impact on air quality
- Impact on traffic volume
- Noise and disturbance from the construction and potential structural damage to the nearby residential properties during the construction.
- The bridleway crosses the heart of the proposed construction access and movements of construction vehicles on this access could cause serious injury to the users of the bridleway.
- The widening of the road would result in the loss of the grass verge and trees.
- The existing shops and infrastructure including schools and health care facilities cannot support the proposed development.
- The proposed accesses are inadequate and the residential street is narrow.
- The proposed access over the bridle path is inappropriate and dangerous. The bridle path is used by the pedestrians, cyclists and horses.
- The additional emergency access and vehicular access would endanger traffic safety and the road infrastructure from Clearheart Lane does not support this application. Clearheart Lane is an already congested narrow road (unlike described in the Transport Statement as a generous carriageway). Increased traffic on Clearwater Lane will pose an increased safety risk to children walking to Discovery Primary School.
- The proposed emergency access is not suitable for the access of the emergency vehicles.
- The main access crosses the by-way used by pupils
- The proposed parking provision would not be adequate and there would be more strain on road parking.
- This area was not included in the initial Rouse master plan.
- The proposal would not benefit the local community and would disrupt the local amenity.
- The reasons for refusal in the appeal decision (ref: ref APP /H2265/A/00/1053813) are relevant to this application.

- The reasons for refusal in 2011 are still relevant (ref: 10/03340/OA).
- If permission is granted a buffer tree zone should be retained to allow a wildlife corridor and a large ragstone wall built to prevent any motorised access to Teston Road.
- The proposal poses a threat of surface water flooding.
- The proposal does not contribute to the carbon emission target.
- The proposal would result in loss of light, outlook/visual amenity and privacy to the neighbouring properties.
- The proposal is not being seen in the context of the other bordering developments.
- Bluebells cover this area and are protected under the Wildlife & Countryside Act 1981 and the landowner is prohibited from removing bluebells from this land;
- There would be light and noise pollution from the proposed development.

5.17 Officer comment - The content of the objections in many instances have been resolved and mitigated by the additional information submitted during the processing of this planning application, since the objections were lodged in 2021.

6. Policy Context:

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). The stated housing land supply position as of 31 March 2022 is 3.22 years. This means that the presumption in favour of sustainable development as set out at paragraph 11 of the Framework (2021) 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, 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 Framework. The consequence of this in these circumstances are that consideration must be given to the extent of conformity between development plan policies and the policies contained within the Framework as a whole.

Policy toward Housing Development

- 6.3 Paragraph 60 of the NPPF sets out that, to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
- 6.4 The Council does not have an up-to-date local plan and cannot presently demonstrate a five year supply of housing. Consequently, in accordance with paragraph 11 d) of the NPPF, much of the adopted development plan is out of date for the purposes of determining applications for new housing development.
- 6.5 The site is adjacent to the Green Belt and ancient woodland, but these designations are not directly on the site and therefore the proposal must now be assessed on the policies within the Development Plan, where they accord with the NPPF, and this Framework as a whole. The site is a designated site in Policy H1 of the Development land Allocations DPD (April 2008) and this matter is to be attributed significant positive weight in the overall planning balance.

6.6 Core Strategy (adopted September 2007)

Policy CP1 Sustainable Development – whilst parts of this policy have diminished weight or no weight, the policy overall is still to be afforded weight in the determination of applications.

Policy CP2 Sustainable Transport – This policy is deemed to be consistent with the Framework and therefore afforded full weight.

Policy CP17 Affordable Housing – Generally consistent with the Framework and therefore capable of being afforded full weight.

Policy CP24 Achieving a High Quality Environment – This is to be read in conjunction with Section 12 of the NPPF (2023) Framework and considered to be afforded full weight still.

Policy CP25 Mitigation of Development Impacts - This is to be read in conjunction with paragraphs 55-58 and 199-208 of the NPPF (2023) Framework and considered to be afforded full weight.

6.7 Managing Development and the Environment Development Plan Document (DPD) (adopted April 2010)

Policy SQ1 Landscape and Townscape Protection and Enhancement

Policy CC3 Sustainable Drainage

Policy NE2 Habitat Networks

Policy NE3 Impact of Development on Biodiversity

Policy OS3 Open Space Standards

Policy OS4 Provision of Open Space

Policy NE4 Trees, hedgerows and woodland

Policy SQ1 Landscape and Townscape Protection and Enhancement

Policy SQ8 Road Safety

7. **Determining factors:**

Material considerations

- Principle of Residential development
- Access to site from Clearheart Lane
- Biodiversity impacts and mitigation
- Impacts on Ecology and trees.
- Assessment of Affordable Housing
- Land contamination
- Flood Risk and Sustainable Drainage

Matters Reserved

- Layout, design and massing
- Dwelling Mix

- Standard of accommodation
- Impact on neighbouring amenity
- Parking and Refuse
- Landscaping
- Energy efficiency and carbon reduction

Principle of Residential Development

- 7.1 The site is a development site allocation as stipulated in the adopted DPD (2008) and therefore the principle of residential development holds significant support in policy terms. Subject to material planning matters outside of those to be reserved, the principle of development is established. The site is considered sustainable and represents an urban extension to Kings Hill on a site with partial historic brownfield use .

Access to the site from Clearheart Lane

- 7.2 The applicant submitted a proposed plan for the new access road on Clearheart Lane, representing a continuation of the existing adopted highway. The detailed access point arrangements are shown in reference R-19-0045-001 Rev A and in a location wide proposed access plan reference CL-16410-01 006 Rev F, also identifying the emergency access to the south of the site.

- 7.3 Paragraph 111 of the NPPF (2023) states:

“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.”

Policy SQ8 Advises that development proposals will only be permitted where they would not significantly harm Highway safety.

- 7.4 The detailed access includes a six metre (6m) wide access road with two metre (2m) pedestrian walkway access on either flank plus additional space to allow for waiting cars. The development scheme proposes to access the site via an extension of the existing residential road known as ‘Clearheart Lane.’ Clearheart Lane is currently an unclassified non through road that serves a limited number of dwellings. The proposals will have the effect of changing the function of the road to a through road serving a larger residential development. No modifications to the road are proposed by the applicant notwithstanding the development access via a raised table feature.
- 7.5 Kent County Council (KCC) Highways have analysed the scheme and note Clearheart Lane currently accommodates two-way traffic flow, with Kent Design

Guide compliant carriageway widths and dedicated footways on both sides of the road.

- 7.6 Regarding the existing impact and relationship with Clearheart Lane, Kent County Council make the following suggestion, *“whilst on street parking is not the subject of any existing restrictions it is noted that the majority of dwellings that have frontage access, or front onto Clearheart Lane, benefit from dedicated off street parking provision. This helps to limit the levels of on-street parking that could be otherwise obstructive to the two-way flow of traffic. There is therefore no technical basis on which KCC Highways could sustain an objection to Clearheart Lane being used as a route of access to the development”*.
- 7.7 Officers are aware of significant objections to the development on grounds of increased traffic and concerns at the narrow approach on Clearheart Lane when cars are parked on the road. Notwithstanding the forementioned comments, Clearheart Lane currently provides access to approximately 40 dwellings, which would mean the new access road will provide access to roughly 105 dwellings, should they be granted consent. Secondly, Clearheart Lane is a modest/moderate length (approximately 110 metres) with crossover access to properties to the side allowing cars to park while awaiting vehicles passing. Kent County Council Highways are mindful of the linear alignment of Clearheart Lane providing good levels of forward visibility thereby allowing intervisibility between vehicles travelling in opposing directions, as well as of any vehicles that are parked on street. This carries relevance when assessing the likely impact on overall levels of highway safety at this location.

Sustainable Travel

- 7.8 Analysis of the site’s sustainable transport credentials has been undertaken by the applicant, with the results presented in sections 3.1 to 3.5 of the applicant’s Transport Statement (prepared by Evoke, dated March 2021). This analysis identifies that the site is located in a sustainable location within acceptable recommended walking distances of many local facilities e.g. the Discovery School, Kings Hill Sports Park and Kings Hill Waitrose, which can be accessed via existing routes. In addition, it is noted that the site is located within close proximity to an existing bus stop situated on Discovery Drive which is served by the X1 and X2 service that provides a regular service between Maidstone and West Malling train station; thus enabling the potential for trips by these modes.

Traffic Impact

- 7.9 The proposals are anticipated to generate 36 two-way movements (combined arrivals and departures) in the AM (08:00) and PM (17:00-18:00) peak hours. These forecasts have been derived through reference to the trip generation figures previously accepted by KCC Highways as part of the Kings Hill Phase 3

applications, which were granted on appeal. This approach is considered acceptable to KCC Highways and ensures a suitability robust assessment.

- 7.10 To establish the likely routing patterns of the traffic generated by the development the applicant has made use of a real time journey planner to identify travel times to the adjacent local highway network (A228 and Ashton Way), via different routes. The applicant's analysis has concluded that there is likely to be a relatively even split of traffic across the local network via the different available routes, given the minimal differences in journey times. KCC Highways consider this to be a reasonable conclusion.
- 7.11 Given the limited number of predicted movements resulting from the development, KCC Highways do not require further detailed junction capacity assessments in this instance based on anticipated dispersed nature of movements. Accordingly, KCC Highways do not consider that the impact of the proposals on the local highway network, in capacity terms, could be reasonably described as 'severe.'

Parking, servicing and Turning

- 7.12 The parking layout and servicing regime are reserved matters and as such turning and swept path analysis within the site at this stage is purely for illustrative guidance and is subject to future review. The submitted Transport Statement provides swept path analysis in Appendix D for vehicles based on cars (R-19-0045-004) and a refuse truck and fire tender vehicle (Ref R-19-0045-002). Based on the submitted information there is sufficient access and turning circles for the proposed layout.

Emergency vehicular access

- 7.13 The outline development scheme identifies a secondary emergency access to the site from the south-west corner via Ketrige Lane formed of an existing unmade access road. Appendix B within the Transport Statement provides swept paths analysis (R-19-0045-005 Rev B and R-19-0045-007) for the lane access. The access point is not within the ancient woodland designation and Kent CC Highway hold no objection to the route identified which previously overcame a concern raised.
- 7.14 Kent Fire and Rescue service were consulted and have confirmed that the off-site access requirements of the fire and rescue service have been met. The proposed access off Clearheart meets requirements but the service reminds the applicant that Building Regulations 2010 Volume 1 and 2 must be complied with to the satisfaction of the Building Control Authority.

Summary of access considerations

- 7.15 The proposed access and related secondary emergency access to the site are considered acceptable and policy compliant subject to all plans and obligations adhered to. Detailed parking, internal layout turning and servicing shall all be subject to reserved matters.

Biodiversity impacts and mitigation:

- 7.16 Para 174 of the NPPF (2023) seeks to d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 7.17 Para 180 of the NPPF states “if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused”.
- 7.18 Para 182 of the NPPF states “the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site”.
- 7.19 The applicant submitted an updated biodiversity net gain assessment (dated September 2022, prepared by Greenspace ecological solutions) which concluded using the biodiversity metric 2.0 calculator the site would suffer a 40% net biodiversity loss (12.13 habitat units) based on the modest on-site enhancements proposed.
- 7.20 To achieve a biodiversity net gain on site and move towards the requirement for 10% net gain as part of new regulations (albeit not formally lawful), the biodiversity report identified a site in the applicant’s ownership for off-site biodiversity mitigation. Based on table 1 in para 4.1.4 of the biodiversity report, applying enhancements to the mitigation land off-site, a 12.18% increase in Biodiversity can be realised.
- 7.21 The off-site habitat creation and enhancements are set out in detail within Para 5.3.1 of the biodiversity report and are acceptable to officers and KCC ecology. To offset the loss of habitat units within the site from the proposed development, an area located approximately 3.5 miles southwest of the site is available for enhancement (as presented in Figures 4, 5 & 6 of the biodiversity report). This area is currently agricultural pasture with scattered beech *Fagus sylvatica*, pedunculate oak *Quercus robur*, pine *Pinus sp.* and sycamore *Acer pseudoplatanus* trees.
- 7.22 The LPA does not object to the utilisation of the identified mitigation site within the Tonbridge and Malling borough area and such an off-site mitigation method is permitted by the NPPF (2023). Notwithstanding the mitigation site identified

and the 12% biodiversity net gain report, officers expect the potential on-site enhancements to be exhausted prior to the mitigation site being considered in isolation. As such, planning conditions and legal obligations shall be drafted whereby a site first approach first is conducted in partnership with the reserved matters and landscaping details to seek to provide the 10% net gain on site. In the instance whereby 10% on site cannot be realised the off-site option shall be engaged and are secured by planning condition.

Impacts on Ecology and trees:

- 7.23 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.
- 7.24 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.
- 7.25 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.
- 7.26 The site is not subject to any ecological designations and therefore is not subject to any overt protection. The submitted ecological assessment report (Dated September 2022 prepared by Green Space ecology, ref J20981_P7_Rev A) confirms the outputs of the report below,
- Moderate bat activity (the Bat survey confirmed no roosting bats)
 - Nesting and breeding birds
 - Dormice are present on site and best practice and mitigation strategies required to ensure that the favourable conservation status of dormice is maintained on the site post development, have been provided. hazel dormouse *Muscardinus avellanarius* is listed as a European protected species under the Conservation of Habitats and Species Regulation 2017 (as amended) (Habitats Regulations 2017),
 - Good population of slow-worms and low population of lizards, the maintenance of their welfare during construction shall be safe guarded.
 - The likelihood of other protected and otherwise notable species to occur within the site is considered negligible and no further surveys for other protected species are required.

- 7.27 Para 5.3.35 of the ecological report confirms “field signs of hazel dormice were identified within the Site during the survey. Dormice are therefore ‘Present’ within the Site. Para 6.3.39 of the report expands on the test for dormouse stating “Nest tube surveys are intended to only detect presence/likely absence of dormice and do not permit an estimation of population densities. Therefore, under current guidelines, once presence has been confirmed further surveys are not required, so long as the on-site habitats are contiguous and similar in structure to those within which animals have been recorded (Bright *et al.*, 2006). As the majority of suitable habitat within the site is similar (broadleaved woodland, tall ruderal vegetation and scrub) and the dormouse surveys (GES, 2019) recorded the presence of dormice within the woodland, it can be assumed that dormice are present throughout”. The introduction of the 15m buffer zone not only protects the ancient woodland from encroachment but provides comparable habitat to the existing and therefore an appropriate site for species migration.
- 7.28 The presence of Dormouse would require a European Protected Species Mitigation (EPSM) licence issued by Natural England prior to their removal. Para 6.3.40 of the ecological report provides details on the methodology of mitigation measures but would be subject to the requirement of a licence. The EPSM licence application can only be submitted once full planning permission has been granted and all wildlife related planning conditions (that can be released) have been discharged.
- 7.29 The planning application was accompanied by a Bat survey Report (Dated September 2022 Prepared by Green Space ecological solutions) inclusive of an initial bat survey and two emergence survey dates 13th June and 5th July 2022. Para 4.1.1 of the bat survey confirmed “no bats emerged from any of the trees during the bat emergence surveys conducted at the site”. Para 4.1.2 stated “bat activity recorded across the site identified an assemblage of just four bat species, namely common pipistrelle *Pipistrellus pipistrellus*, soprano pipistrelle *Pipistrelles pygmaeus*, noctule *Nyctalus noctula* and bat/s from the genus *myotis Myotis*”. The identified bats were foraging and commuting between habitats and roosts outside the site perimeter.

Impact on trees

- 7.30 The applicant submitted an Arboricultural Impact Assessment (AIA) (Dated November 2021) and a Parameter Plan 4 - Landscape (Ref CL-16410-01-009 Rev H) outlining the impact on the tree numbers on site. The site is subject to Tree Preservation Order (TPO), reference number 21/00005/TPO.
- 7.31 The AIA report states “*the majority of the trees to be removed are within the ‘C’ category due to their size or ailing condition. However, a total of three B category trees will be removed to enable the proposed development. The trees to be removed can be replaced as part of a landscape scheme for the site*”. The

two (2) existing category A trees of greatest merit shall remain and will form part of the outline open space for the site. The retention of the two (2) cat A trees is welcome and their inclusion in open space areas would create a sustainable long term healthy environment for the trees.

- 7.32 The only tree within the existing TPO which is shown for removal on the plan included within the submitted Arboricultural Report is a suppressed Cherry (T43 of the survey included within the submitted Arboricultural Report). All other TPO trees are shown for retention.
- 7.33 Overall, a total of 30 individual trees would be felled and one group of trees removed. Officers consider the site to be capable of replacing the tree loss in a 1-2 ratio (2 trees to replace everyone lost) and as such a robust landscaping condition shall be applied to any approval.
- 7.34 The Council's Tree Officer concludes the loss of the TPO tree is justified and reserved matters should include a detailed scheme of hard and soft landscaping, levels information, details of services in relation to the retained trees and a finalised site specific arboricultural method statement with tree protection plan. Relevant planning conditions are therefore applied to the outline recommendation.

Assessment of Affordable Housing:

- 7.35 The Affordable Housing Protocol November (2021) lays out in detail the Council's position on Affordable Housing Delivery in the interim period before a new Local Plan is adopted. This protocol is used for Development Management decisions. In addition, policy CP17 sets out a 40% affordable housing requirement, with a 70/30 split between affordable housing for rent and other affordable housing tenures. This site is therefore required to provide 40% affordable housing in accordance with council policy, along with the provision of First Homes that is now also a policy requirement.
- 7.36 A viability statement or viability appraisal has not been submitted by the applicant to confirm the scope and identification of the affordable housing on the development site. Discussions between the applicant and TMBC have confirmed the applicant shall endeavour to provide a quantum, tenure and mix of dwellings commensurate and in accordance with adopted policy CP17 of the Core Strategy and the TMBC affordable housing protocol. Notwithstanding the policy expectation for affordable housing the applicant is permitted to submit a viability report in the event the site cannot achieve the policy expectations and shall be secured via obligations in a s106 legal agreement. The detailed drafting of the provisions to be contained within the legal agreement in this respect will be 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.

Land Contamination:

- 7.37 Paragraph 183 of the Framework states that planning policies and decisions should ensure that:
- 7.38 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);
- 7.39 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
- 7.40 c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.
- 7.41 Paragraph 184 makes clear that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rest with the developer and/or landowner. The application is supported by a Phase 1 Ground Conditions Assessment including a Tier 1 Preliminary Risk Assessment, prepared by Hilson and Moron which are considered to adequately review the history and environmental setting of the site. The Phase 1 report adequately reviews the history and environmental setting of the site.
- 7.42 The applicant supplied a Phase 1 Contaminated Land & UXO Assessment (Dated 18/10/2023 – Ref 8917-HML-XX-XX-RP-U-870001) following initial concerns raised by the Environment Agency due to the potential risks to groundwater from the development. Groundwater is particularly sensitive in this area due to the location upon a principal aquifer. In addition, the area has a military history that is likely to have retained contaminants in the ground.
- 7.43 Table 6.4 of the submitted phase 1 report confirms the potential risk of contaminants which do extend to moderate risk. The Environment Agency have reviewed the report and noted the mitigation and works required to secure the site for residential development. The EA have subsequently removed their initial objection subject to planning conditions to secure the site in the event of contamination being located on site can be satisfactorily managed.
- 7.44 The TMBC Environmental Protection Officer has confirmed contamination across the wider Kings Hill development is typical for a brownfield site with most locations covered in a layer of made ground with hotspots of heavy metals, hydrocarbons and asbestos. Risks associated with ground contamination on these sites has been successfully remediated (typically through localised excavation or use of a clean cover layer) to allow for residential development with no unacceptable risks to groundwater identified.

Flood risk and Sustainable drainage

- 7.45 Paragraph 167 of the Framework 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.
- 7.46 Para 169 expects “Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:
- a) take account of advice from the lead local flood authority;
 - b) have appropriate proposed minimum operational standards;
 - c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and
 - d) where possible, provide multifunctional benefits.
- 7.47 Policy CP10 states, “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.
- 7.48 The planning application is supported by an FRA (Flood risk assessment) prepared by Hilson Moran confirming the site is located in flood zone 1. The FRA report states, “as a consequence of the proposal, the rate of runoff generated from the site will be maintained at the current greenfield rate. The effect of the proposed development on the volume and rate of surface runoff generated is, therefore, deemed to be of neutral/negligible significance”.

- 7.49 Policy seeks development to maintain greenfield run off rates based on the individual specifics and therefore robust conditions shall be applied to secure and ensure a Sustainable Drainage System (SuDS) for the proposed development will be designed to accommodate all additional runoff from the site for rainfall events up to and including the 1 in 100-year event including a 40% allowance for climate change and infiltrate it to ground. In addition, the drainage system should allow for methods that limit subterranean storage and rely on above ground methods and are integral to the core design elements of the site.
- 7.50 The FRA report considers the proposed high sustainable drainage and states that “consequently there would be no requirement for additional discharges to the surface water sewer system, and thus no mitigation is deemed necessary. The residual risk from surface water sewer flooding is therefore deemed to be of neutral/negligible significance”. Officers note the conclusions provided are premeditated on the drainage scheme achieving the required greenfield run off rates and therefore the conditions attached to consent are designed to ensure the scope of drainage design scheme.

Foul sewage

- 7.51 The submitted FRA report states “it is anticipated that the proposed development will lead to an increase in foul water discharges from the site. The developer will augment the existing sewer infrastructure accordingly. In accordance with Building Regulations Part G, it is also anticipated that low water consumption appliances (low-flow taps and white goods) will be introduced throughout the proposed redevelopment, which will minimise foul water discharges”.
- 7.52 The site is in close proximity to the sewage network on Clearheart Lane and therefore the physical connection is not considered to be physically difficult. The capacity of the sewage system will need to be considered and shall form a condition of the development scheme.

Reserved matters:

- 7.53 The nature of the outline planning application reserved a range of material planning matters for later discussions and presentation of details subject to the outline planning application receiving consent.

Layout, design and massing:

- 7.54 Para 126 states “the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”.

- 7.55 Policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007 requires that all development must be well designed and of a high quality in terms of detailing and use of appropriate materials, and must through its scale, layout, sitting, character and appearance be designed to respect the site and its surroundings.
- 7.56 The applicant has submitted an indicative masterplan for illustrative purposes to reflect how the layout could achieve 65 dwelling units. The final layout and design of the development would be subject to further detailed submissions and reviews by officers, and at this stage further consideration is not applicable.

Dwelling Mix

- 7.57 The applicant outlined a provisional dwelling mix in the submitted design and access statement with a table illustrated below. The final dwelling mix is subject to broad adherence to the adopted policy and where applicable viability on site to achieve targets in policy CP17.

Dwelling size	No. of units	Percentage (%)
2 bed	36	55.4
3 bed	15	23.1
4 bed	8	12.3
5 bed	6	9.2
Total	65	100

Standard of accommodation

- 7.58 The proposed dwellings would all be required to meet and where possible exceed the national floorspace standards and provide sufficient and usable external amenity area.
- 7.59 The final layout and interaction between buildings coupled with areas of communal playspace will need to consider the overall impact on the future living conditions of residents.

Impact on neighbouring amenity

- 7.60 Para 130 of the NPPF states development “should ensure 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”.
- 7.61 The illustrative masterplan shows that the development site is largely divorced from adjacent development to the north and no development is applicable on the east, west and southern boundaries. Elements of the development of houses on the north boundary of the site have the potential to have some impact on neighbouring properties but as the final layout is to be finalised by

reserved matters, areas of conflict if applicable can be addressed subject to the outline scheme being consented.

Parking and refuse

7.62 The planning application is in outline (with all matters reserved other than access) and therefore the parking arrangements and internal highway layout will be further analysed as part of the reserved matters stage, taking into account the relevant KCC guidance. Notwithstanding the final detail of car parking on site to be confirmed, the illustrative masterplan outlines broadly how parking would be provided. Resident and visitor parking provision would need to accord with IGN3 (Parking standards). For context the interim Kent Vehicle parking standards table is shown below,

**Kent Vehicle Parking Standards (July 2006)
& Kent Design Guide Review; Interim
Guidance Note 3 – Residential Parking
(November 2008);**

3.27 For a suburban context, the following residential parking standards are set out:

	Car Parking	Cycle Parking
1 bed houses	1 space per unit (allocation possible)	1 space per dwelling
2 bed houses	1 space per unit (allocation possible)	2 spaces per dwelling
3 bed houses	1.5 spaces per unit (allocation possible)	2 spaces per dwelling
4+ bed houses	2 independently accessible spaces per unit (allocation possible)	3 spaces per dwelling

7.63 The development site would be capable of providing sufficient parking for the outline 65 units and potentially highly efficient layouts could be applied to the site to improve efficiency of land use and prevent unnecessary dead space.

Landscaping

7.64 Para 130 of the NPPF seek to ensure development is “visually attractive as a result of good architecture, layout and appropriate and effective landscaping”. Significant loss of trees and biodiversity would result from the development and therefore a robust replacement landscape strategy would be expected by officers and shall be conditioned accordingly.

7.65 Para 131 states “trees make an important contribution to the character and quality of urban environments and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are

tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly planted trees, and that existing trees are retained wherever possible". The internal layout has high potential to replace the lost trees and create an attractive environment reflective of surrounding residential areas largely typified by tree lined streets.

- 7.66 Any landscape scheme will be subject to reserved matters and would be developed in partnership with the biodiversity enhancements on site and appropriate planning conditions have been applied to secure high quality appearance.

Energy efficiency and carbon reduction:

- 7.67 Adopted policies CC1 and CC2 within the MDE DPD are considered to be out of-date following the Housing Standards Review in 2014 which removed the voluntary Code for Sustainable Homes and made it clear that local plans should not be setting any additional local technical standards or requirements relating to energy performance of new dwellings. These matters are within the remit of the national Building Regulations. Notwithstanding that, paragraphs 152 to 154 of the NPPF (2023) are relevant and demonstrate that the Council's Climate Change Strategy can be considered a material consideration.
- 7.68 The applicant has provided a sustainability Statement and energy Strategy (prepared by Hilson and Moran, dated March 2021) outlining the energy hierarchy and consideration of the future development against the criteria.
- 7.69 The report demonstrates a range of sustainable design considerations including heat pumps and photovoltaic panels on ideally south facing roofs. Officers would seek additional sustainable products and methods will be incorporated within the scheme, including:
- Reducing greenhouse gas emissions from energy use (Fabric First);
 - Provision of renewable energy (10% energy demand met by renewables);
 - Sustainable transport measures, including electric vehicle charging provision;
 - Efficient use of materials;
 - Reduction in water consumption; and
 - Provision of green infrastructure and ecological protection and enhancement measures.

7.70 In addition, the scheme also intends to exceed Part L of the Building Regulations which contains requirements relating to the conservation of fuel and power. In particular:

- External walls 20% improvement;
- Floors 40% improvement;
- Roof 50% improvement;
- Windows 35% improvement; and
- Air tightness 50% improvement.

Other Material matters:

7.71 The application provided an archaeological desk- based assessment survey (prepared by Oxford archaeology dated June 2020), the broad summary of the archaeological value is summed up below,

7.72 *“The site lies in the hinterland of several medieval settlements with probable Anglo-Saxon origins, though no heritage assets of early and later medieval date are recorded within the vicinity of the site. Given the presence of several areas of ancient woodland, it is possible that the landscape was largely woodland in nature, which is likely to have continued into the post-medieval period as evidenced by historic mapping. A number of post-medieval farmsteads within the vicinity also demonstrate the agricultural nature of areas of the landscape.”*

7.73 Lichfields planning consultancy acting on behalf of the applicant and landowner Tregothnan Estates prepared a Statement of Community Involvement and elaborates on the applicants efforts to foster involvement and local feedback on the scheme.

Developer Contributions:

7.74 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

- 7.75 (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

7.76 KCC has 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 (noting that this is based on the illustrative mix for proposal)

- Primary Education- £351,828.10
- Secondary education - £363,167.35
- Secondary Land - £311,088.95
- Special Education Needs - £36,388.95
- Community Learning - £2,223.65
- Integrated Children's Services - £4,813.25
- Library - £4,070.95
- Adult Social Care - £11,757.20
- Waste - £3,380.

7.77 TMBC apply open space contributions to developments of 5 dwellings and greater and therefore the outline development would be liable for a contribution subject to on-site open space provision covering the following,

- Parks & Gardens
- Outdoor Sports Facilities
- Children's and Young People's Play Areas

7.78 The final layout and landscape plan is reserved matter and therefore final contributions cannot be applied at this stage but would form wording in a section s106 legal agreement. In addition to the above, contributions to provision of footpaths, cycle and bridle routes linking with existing and/or proposed routes at Kings Hill shall be sought.

7.79 Legal matters and Heads of Terms shall include the need for affordable housing to be provided with appropriate triggers and all obligations set out above. For the avoidance of doubt the proposed development shall provide 40% affordable housing with a 70/30 split between affordable housing for rent and other affordable housing tenures.

Planning Balance and conclusions:

7.80 Since the Council cannot demonstrate a 5yr housing land supply, the presumption in favour of sustainable development as set out at paragraph 11(d) of the Framework applies in this instance (the tilted balance). That means that permission should be granted unless the application of policies relating to

designated heritage assets provide a clear reason for refusing the development; or there are 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.

- 7.81 Whilst there would be some change in character from the loss of previously open and partly wooded open space, the parameters of this outline scheme provide sufficient confidence that the development would be acceptably landscaped, such that the impacts are not deemed to be significantly harmful or adverse. Despite being an undeveloped parcel of land the application site is included within the urban area boundary of Kings Hill.
- 7.82 Officers apply significant weight to the designation of the site known as F2 (f) (Kings Hill) in the development Land Allocations DPD (adopted April 2008) and which is clearly identified as an established development site. Members will be aware of the need to deliver more housing including affordable housing in order to meet housing delivery targets. This proposed development would deliver a total of 65 homes. In light of the presumption in favour of sustainable development and the tilted balance, this needs to be given significant weight.
- 7.83 If members disagree with officers and consider that any of the above matters should attract negative weight in the planning balance, then it should be noted that these adverse impacts would need to significantly and demonstrably outweigh the benefits in order for the application to be refused, in accordance with paragraph 11 of the NPPF

8. Conclusion:

- 8.1 The site is an identified development site for 65 dwellings as stipulated and set out in the adopted site allocation DPD (2008) and therefore the principle of residential development is sound and holds significant support in policy terms. KC Highways approve the access which is the only core matter not formally reserved and therefore the outline planning application is acceptable to officers.
- 8.2 The outline planning application is subject to robust planning conditions and a s106 legal agreement. The proposed design, massing and scale of development amongst other planning matters would be subject to further review by officer and committee members.
- 8.3 The outline development meets strategic overarching policies and would not in result in demonstratable harm as per Para 11 of the NPPF (2023).

9. Recommendation

- 9.1 Grant outline permission subject to the signing of an appropriate S106 legal agreement (see paragraphs 7.76, 7.77, 7.78 and 7.79 above) and to the following conditions:

Conditions

1. Approval of details of the siting, design, external appearance of the building(s), internal access road(s), and the landscaping of the site, for any phase or sub-phase of the development of the site, (hereinafter called the "reserved matters") shall be obtained in writing from the Local Planning Authority.

Reason: No such approval has been given

2. Application for approval of the reserved matters in the first phase or first subphase of the development shall be made to the Local Planning Authority not later than three 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 3 years from the date of this permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved for the first phase or first sub-phase of the development, whichever is the later.

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

4. The development hereby permitted shall be carried out in accordance with the following approved plans:

Proposed access Locations (CL-16410-01 006 Rev G)

Site Plan (Ref CL 16410-01-001 Rev D)

Parameter Plan 4 - Landscape (Ref CL-16410-01-009 Rev H)

Site Access Arrangement (Ref R-19-0045-001 Rev B – Dated 20-05-20)

Reason: To ensure the development is carried out in accordance with the approval and to ensure the quality of development indicated on the approved plans is achieved in practice.

5. Site Levels

- a) No development shall take place until details of the levels of the building(s), road(s) and footpath(s) in relation to the adjoining land and highway(s) and any other changes proposed in the levels of the site have been submitted to and approved in writing by the Local Planning Authority.

- b) The development shall thereafter be implemented in accordance with the details as approved under this condition and retained as such thereafter.

Reason: To ensure that the development is carried out at suitable levels in relation to the highway and adjoining land having regard to drainage, gradient of access, the safety and amenities of users of the site, the amenities of the area and the health of any trees or vegetation

Highways/Transport/Parking

6. Prior to the commencement of any phase or sub-phase of the development which includes erection of buildings, details in accordance but subject to site specific changes, with the Kent Appendix 1 Design Guide IGN3 shall be submitted to and approved in writing by the Local Planning Authority showing adequate resident and visitor parking and turning space for vehicles likely to be generated by that phase or sub-phase of the development. The approved areas of land shall be provided, surfaced and drained in accordance with details to be submitted to and approved in writing by the Local Planning Authority before the buildings constructed within that phase or sub-phase are occupied and shall be retained for the use of the occupiers of, and visitors to, the premises.

Thereafter, no permanent development, whether or not permitted by Town and Country Planning (General Permitted Development) Order 2015, 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 this reserved parking area.

Reason: Development with provision of adequate accommodation for the parking or garaging of vehicles is less likely to lead to parking inconvenient to other road users and detrimental to amenity.

7. Prior to the commencement of any phase or sub-phase of the development, details of the proposed service/emergency road linking to KetrIDGE Lane via must be submitted to and approved in writing by the Local Planning Authority. Details to include width, surfacing, swept paths.

Reason: To ensure that the development complies with adopted Policy and does not prejudice access by emergency services

8. Prior the commencement of any phase or sub-phase of the development 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 prior to commencement of works on site and for the duration of the construction.
 - (e) Temporary traffic management / signage
 - (f) Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction.
 - (g) Provision of measures to prevent the discharge of surface water onto the highway

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

Drainage

9. No development shall take place until the details required by Condition 1 (reserved matters condition for layout) shall demonstrate that requirements for surface water drainage for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm can be accommodated within the proposed development layout.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and that they are incorporated into the proposed layouts.

10. Where infiltration is to be used to manage the surface water from the development hereby permitted, it will only be allowed within those parts of the site where information is submitted to demonstrate to the Local Planning Authority's satisfaction that there is no resultant unacceptable risk to controlled waters and/or ground stability. The development shall only then be carried out in accordance with the approved details.

Reason: To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

11. Prior to development above slab level 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.

12. No development shall commence until a strategy to deal with foul water drainage is submitted to, and approved in writing by, the local planning authority.

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

Archaeological

13. 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.

Contamination

14. No development approved by this planning permission shall commence until a strategy to deal with the potential risks associated with any contamination of the site has been submitted to, and approved in writing by, the Local Planning Authority. This strategy will include the following components:
1. A site investigation scheme, based on the Phase 1 Contaminated Land & UXO Assessment (Dated 18/10/2023 – Ref 8917-HML-XX-XX-RP-U-870001) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 2. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 3. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To ensure that the development does not contribute to, or put at risk future occupiers of the development

15. Prior to any part of the permitted development being occupied a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason: To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved

verification plan have been met and that remediation of the site is complete. This is in line with paragraph 174 of the National Planning Policy Framework (2023).

16. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until 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 174 of the National Planning Policy Framework.

17. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated by a piling risk assessment that there is no resultant unacceptable risk to groundwater. 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 174 of the National Planning Policy Framework.

Trees

18. a) No development shall take place until details of the location, extent and depth of all excavations for services (including but not limited to electricity, gas, water, drainage and telecommunications) in relation to trees on and adjacent to the site have been submitted to and approved in writing by the Local Planning Authority.
- b) The development shall thereafter be implemented in accordance with details approved under this condition.

Reason: To safeguard the health of existing tree(s) which represent an important amenity feature.

Hard and Soft Landscaping:

19. a) A scheme of hard and soft landscaping, including details of existing trees to be retained and size, species/cultivar, planting heights, densities and positions of any soft landscaping, shall be submitted to and agreed in writing by the Local Planning Authority before the development hereby permitted is commenced.
- b) All work comprised in the approved scheme of landscaping shall be carried out before the end of the first planting and seeding season following occupation of any part of the buildings or completion of the development, whichever is sooner, or commencement of the use.

c) Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of appropriate size and species in the next planting season.

Reason: To ensure a satisfactory appearance to the development.

20. Tree protection and method statement:

a) No site works (including any temporary enabling works, site clearance and demolition) or development shall take place until a dimensioned tree protection plan in accordance with Section 5.5 and a site specific arboricultural method statement detailing precautions to minimise damage to trees, based on and expanding upon the principles raised within the “Arboricultural Impact Assessment and Method Statement, Revision D, A Report for Tregothnan Estate, November 2021” by Greenspace Ecological Solutions, including, but not limited to, finalised details relating to methodology, protection measures and precautions to be undertaken to minimise damage to trees during the development works, installation of services and construction of new hard surfaces/landscaping works, details of treework to be undertaken as part of the proposed development, phasing of the development works, and an auditable/audited system of arboricultural site monitoring and be in accordance with Section 6.1 of British Standard BS5837: 2012 (Trees in relation to design, demolition and construction - Recommendations) have been submitted to and approved in writing by the Local Planning Authority.

b) No site works (including any temporary enabling works, site clearance and demolition) or development shall take place until the temporary tree protection shown on the tree protection plan approved under this condition has been erected around existing trees on site. This protection shall remain in position until after the development works are completed and no material or soil shall be stored within these fenced areas at any time. The development shall be implemented in accordance with the protection plan and method statement as approved under this condition.

Reason: To safeguard the health of existing trees which represent an important amenity feature.

Biodiversity

Lighting plan

21. No development above slab level for any phase or sub-phase of the development of the site shall commence until a report detailing the external lighting scheme and how this will not adversely impact upon wildlife has been submitted to and approved in writing by the LPA. The report shall include the following figures and appendices:

- A layout plan with beam orientation
- A schedule of equipment
- Measures to avoid glare
- An isolux contour map showing light spillage to 1 lux.

The approved lighting plan shall thereafter be implemented as agreed.

Reason: To limit the impact of light pollution from artificial light on nature conservation (paragraph 185 of the NPPF)

Nesting season

22. All areas of trees, hedges, scrub or similar vegetation where birds may nest which are to be removed as part of the development, are to be cleared outside the bird-nesting season (March - August inclusive) or if clearance during the bird-nesting season cannot reasonably be avoided, a suitably qualified ecologist will check the areas to be removed immediately prior to clearance and advise whether nesting birds are present. If active nests are recorded, no vegetation clearance or other works that may disturb active nests shall proceed until all young have fledged the nest.

Reason: Nesting birds are protected under the Wildlife & Countryside Act, 1981 (as amended), this condition will ensure that wildlife is not adversely affected by the proposed development

23. No development shall commence which results in a decrease in bio-diversity levels on site when compared with existing baseline BNG calculations (as outlined in the submitted Biodiversity Net Gain - Dated September 2022) at the site until either:

- (1) Biodiversity net gain has been secured via on-site biodiversity enhancements (using 2.0 metric) by way of introducing sufficient replacement biodiversity habitats to meet the councils target of a 10% net increase in biodiversity (see obligations) and has been confirmed in writing by the local planning authority: or
- (2) The site specific off-site mitigation scheme (set out in the planning obligation) that accompanies this planning permission (as outlined Biodiversity Net Gain - Dated September 2022) has been implemented in accordance with the requirements set out in the planning obligation and local planning authority has given its written confirmation of the same.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to enhance the Biodiversity of the area in accordance with Paragraph 170 of the NPPF 2023 and Policies NE3 and NE4 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document.

24. Subject to condition 23 and the implementation of subpart (1), An Ecological Design Strategy (EDS) with the first detailed application, for the site shall be submitted to, and approved by, the local planning authority. The EDS will include the following:
- Defined conservation objectives of the proposed works.
 - Review of site potential and constraints.
 - Detailed design(s) and/or working method(s) to achieve stated objectives.
 - Extent and location/area of proposed works on appropriate scale maps and plans.

- Type and source of materials to be used where appropriate, e.g., native species of local provenance.
- Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- Details of those responsible for implementing the works.
- Details of initial aftercare and long-term maintenance, and.
- Details for monitoring and remedial measures.

The EDS will be updated with each subsequent application, implemented in accordance with the approved details and retained in that manner thereafter.

Reason: To protect habitats and species identified in the ecological surveys from adverse impacts during construction.

25. Subject to the implementation of subpart (2) of condition 23, a detailed Mitigation Strategy with the first detailed application, and prior to the commencement of works (including site clearance), shall be submitted to, and approved by, the local planning authority. The plan must include the following:

- Objectives of the proposed works
- Detailed design(s) and/or working method(s) necessary to achieve stated objectives.
- Extent and location of proposed works, including the identification of suitable receptor sites, shown on appropriate scale maps and plans;
- Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction.
- Persons responsible for implementing the works, including times during construction when specialist ecologists need to be present on site to undertake/supervise works;
- Use of protective fences, exclusion barriers and warning signs, and;
- Disposal of any wastes for implementing work.

The works shall be carried out in accordance with the approved details and retained thereafter.

Reason: To protect habitats and species identified in the ecological surveys from adverse impacts during construction.

26. Prior to the first occupation of the residential development, the 15m buffer zone between the ancient woodland to the north, south and east as illustrated on plan reference Parameter Plan 4 landscape (Ref CL-16410-01-009 Rev H) shall be defined and clearly laid out for the intended purpose of creating a buffer zone to the ancient woodland area. The final appearance of the buffer shall be subject to the written approval by the Local planning authority in accordance with the biodiversity net gain strategy and mitigation plan subject of conditions 26, 27 and 28 of this outline planning approval.

Reason: to retain connectivity for animals such as the dormouse and other species and to reduce pressure on the ancient woodland

Other Material Matters

Low carbon technology

27. Prior to occupation and in conjunction with submitted Sustainability Statement and Energy Strategy (Ref Dated March 2021 Ref 28917-RP-SU-001) details of the zero / low carbon technologies to be used in the development (rooftop photovoltaic panels and combined heat & power boilers) shall be provided in accordance with details to be submitted to the Local Planning and permanently maintained. The submitted detail shall demonstrate compliance with the approved renewable energy strategy and include the design, size, siting, and a maintenance strategy / schedule inclusive of times, frequency and method.

Reason: In the interest of sustainable development and to ensure that the Local Planning Authority may be satisfied that CO2 emission reduction targets by renewable energy are met in accordance with adopted Policy.

Fibre connectivity infrastructure

28. Prior to first occupation of each building, detailed plans shall be submitted to and approved in writing by the local planning authority demonstrating the provision of sufficient ducting space for full fibre connectivity infrastructure within the development. The development shall be carried out in accordance with these plans and maintained as such in perpetuity.

Reason: To provide high quality digital connectivity infrastructure to contribute to London's global competitiveness.

29. Security

Prior to first operation use, the development shall achieve a Certificate of Compliance to the relevant Secure by Design Guide(s) or alternatively achieve Crime Prevention Standards submitted to and approved in writing by the Local Planning Authority in conjunction with the Kent Police. The development shall be carried out in accordance with the approved details and thereafter shall be fully retained and maintained as such for the lifetime of the development.

Reason: In the interests of protecting the privacy and security of neighbouring occupiers and to ensure adequate security features are undertaken to protect residents.

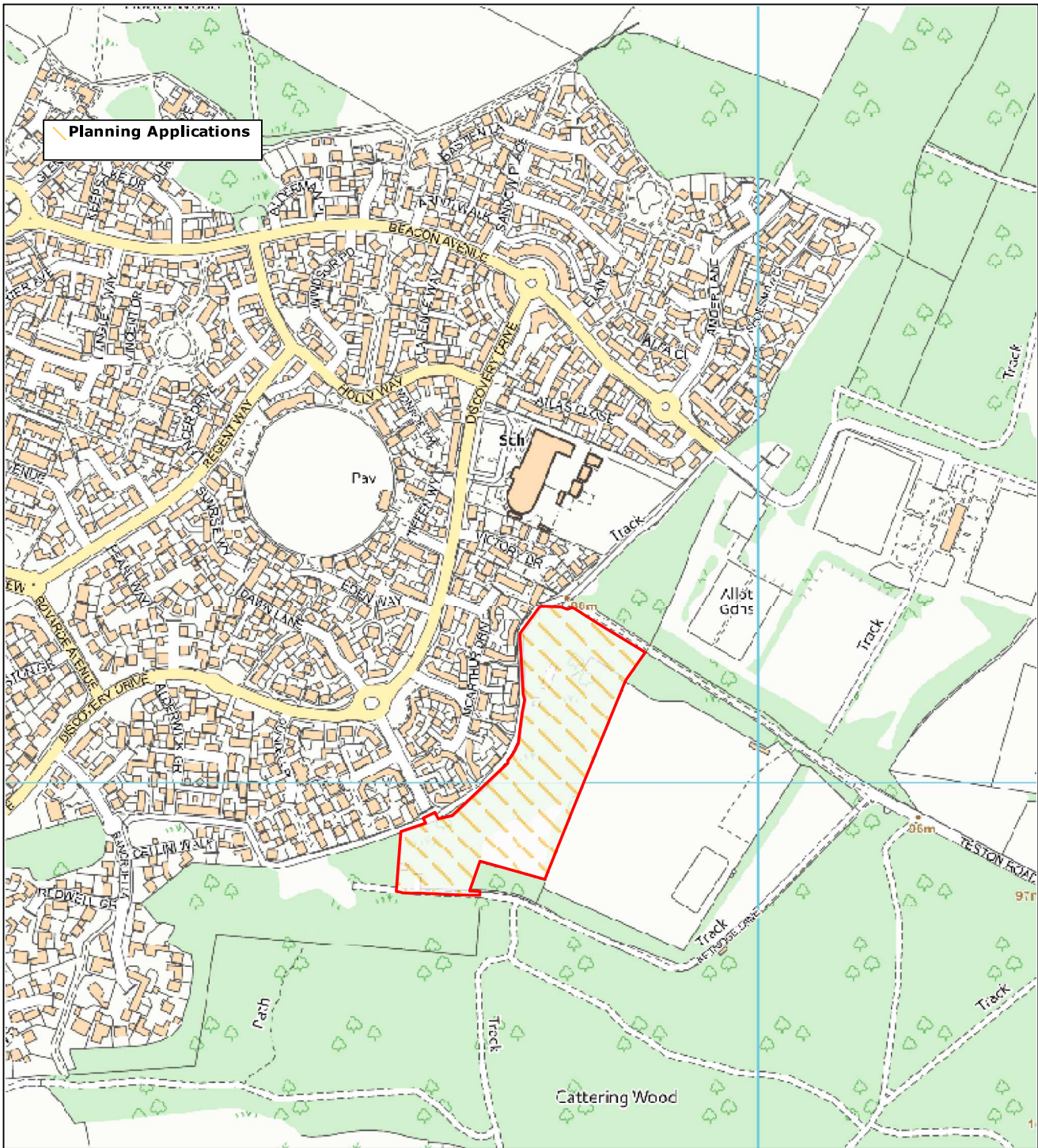
Materials

30. No development within any phase or sub-phase above ground level shall commence until details and samples of all materials to be used externally within that phase or sub-phase have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in strict accordance with the approved details.

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

Informatives

1. Site access is a requirement of the Building Regulations 2010 Volume 1 and 2 and must be complied with to the satisfaction of the Building Control Authority who will consult with the Fire and Rescue Service once a building Regulations Application has been submitted if required.
2. (European Protected Species) The applicant is reminded that, under the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended), it is an offence to: deliberately capture, disturb, injure, or kill; damage or destroy a breeding or resting place; deliberately obstructing access to a resting or sheltering place. Planning consent for a development does not provide a defence against prosecution under these acts. Ponds, other water bodies and vegetation, such as grassland, scrub, and woodland, and also brownfield sites. Where proposed activities might result in one or more of the above offences, it is possible to apply for an EPS mitigation licence from Natural England or the district licence. If a protected species are encountered during development, works must cease, and advice should be sought from a suitably qualified ecologist.



Planning Applications 21/00881/OA

Scale: 1:5000



Tonbridge & Malling Borough Council
 Gibson Building, Gibson Dr
 Kings Hill, West Malling
 ME19 4LZ
 Tel.: +44 1732 844522



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Agenda Item 9

To receive and note any update in respect of planning appeals, public inquiries and hearings held since the last meeting of the Planning Committee.

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Agenda Item 11

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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