

TONBRIDGE & MALLING BOROUGH COUNCIL



EXECUTIVE SERVICES

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

Contact: Democratic Services
committee.services@tmbc.gov.uk

26 November 2024

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, 4th December, 2024 **commencing at 6.30 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](#).

Please be aware of the earlier start time.

Yours faithfully

DAMIAN ROBERTS

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/code-of-conduct-for-members).

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 30 October 2024.

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/21/00881/OA - MOD Land South of Discovery Drive, Kings Hill, West Malling 19 - 66

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

7. TM/23/03060 - Land West of Stickens Lane, Mill Street and Southwest of Clare Lane, East Malling 67 - 160

Outline Application: The erection of up to 150 dwellings (including affordable housing) with public open space, landscaping, sustainable drainage system (SuDS) and vehicular access point. All matters reserved except for means of access

8. TM/24/00927/PA - Rotary House, Norman Road, West Malling 161 - 182

Proposed change of use from an existing community centre to a nursery with associated parking and landscaping

9. TM/24/00078/PA - 119 Land South of Windmill Hill, Wrotham 183 - 206
Heath, Sevenoaks

Removal of soil bund and erection of 1x 3 bedroom detached dwelling with associated parking and landscaping

Matters for Information

10. Planning Appeals, Public Inquiries and Hearings 207 - 208

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

11. 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

12. Exclusion of Press and Public 209 - 210

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

13. 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

Wednesday, 30th October, 2024

Present: Cllr W E Palmer (Chair), Cllr B Banks, Cllr R P Betts, Cllr M D Boughton, 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 and Cllr M Taylor.

Apologies for absence were received from Councillors P Boxall and C Brown and apologies for in-person attendance was received from Councillors M A Coffin and S Crisp who participated via MS Teams in accordance with Council Procedure Rule No 15.21.

PART 1 - PUBLIC

AP2 24/32 DECLARATIONS OF INTEREST

For reasons of transparency, and on the advice of the Monitoring Officer, Councillor W Palmer declared a potential pre-determination and bias regarding application TM/24/01452/PA (Land known as Mumbles Farm, Crouch Lane, Borough Green). After hearing the views of the Parish Council, she addressed the Committee before withdrawing from the meeting and took no part in the debate or vote. In the absence of the Vice-Chair, it was proposed, and seconded, that Councillor S Hudson chair the remainder of the meeting.

AP2 24/33 MINUTES

RESOLVED: That the Minutes of the meeting of the Area 2 Planning Committee held on 18 September 2024 be approved as a correct record and signed by the Chairman.

AP2 24/34 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 24/35 TM/24/01452/PA - LAND KNOWN AS MUMBLES FARM, CROUCH
LANE, BOROUGH GREEN**

Lawful Development Certificate Existing: Section 191, Town and Country Planning Act 1991, for the change of use of land from Agricultural Land to use as a Caravan Site for the siting of a static caravan for human habitation and land used in conjunction with that human habitation, as defined in Section 1(4) of the Caravan Sites and Control of Development Act 1960.

Members noted that the onus rested with the applicant to provide sufficient information to make their case in relation to a Certificate of Lawful Existing Use or Development application. However, if the Local Planning Authority had no evidence itself, nor any from others, to contradict or otherwise make the applicants version of events less than probable, there was no good reason to refuse to grant a certificate, provided the appellant's evidence alone was sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

Members sought clarity on the definition of a caravan, what constituted continuous use and human habitation.

RESOLVED: That a Certificate for Existing Lawful Development be issued.

[Speakers: Mr Charles Baseley (on behalf of Platt Parish Council) and Mr Tony White (on behalf of the Applicant) addressed the Committee in person].

AP2 24/36 PLANNING APPEALS, PUBLIC INQUIRIES AND HEARINGS

The report setting out updates in respect of planning appeals, public inquiries and hearings held since the last meeting of the Planning Committee was received and noted.

AP2 24/37 EXCLUSION OF PRESS AND PUBLIC

There were no items considered in private.

The meeting ended at 7.58 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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Kings Hill
Kings Hill

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 is sought, with all matters reserved for future considerations with the exception of Access for the following development.
- Residential development of up to 65 dwellings/units
 - 40% affordable housing including first homes and a policy compliant tenure and dwelling mix
 - Designated on-site Children's 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, this report deals with the principle of the development, the general quantum of development and the means of Access only. All other matters are Reserved for future consideration.
- 1.3 However, whilst all matters are Reserved (except access) ecology and biodiversity considerations have been examined and assessed in greater detail and are expanded on within the Committee Report.
- 1.4 Some of the submitted plans identify key development parameters against which future Reserved Matters applications will be considered and as such they would constitute 'approved plans' should consent be forthcoming, whereas other plans are submitted purely for informative purposes to illustrate how a scheme could be developed.

1.5 To be clear the plans that would form part of the approved plans are as follows:

- Parameter Plan 1 - Extent of development (Ref CL-16410-01-005 Rev F)
- Parameter Plan 2 - Heights (Ref CL 16410-01-007 Rev G)
- Parameter Plan 4 - Landscape (Ref CL-16410-01-009 Rev K)
- Proposed access (CL-16410-01 006 Rev H)
- Site Plan (Ref CL 16410-01-001 Rev D)
- Access Mitigation Measures & Drawings R-19-0045-02 Dated 22 August 2024 by Evoke.

1.6 Those Plans which are only for informative purposes are as follows:

- Parameter Plan 3 – Density (Ref CL 16410-01 008 Ref H)
- Illustrative Masterplan (Ref L16410/01-017 Rev C dated January 2024)

1.7 In addition to the approved and informative plans, accompanying reports have been submitted to support the application, these are:

- Arboricultural Impact Assessment (Dated November 2021)
- Archaeological Desk-Based Assessment (Dated 9th June 2020)
- Bat Survey Report (Dated September 2022)
- FRA (28917-RP-SU-001 - Dated 8 March 2021)
- PEA Preliminary ecological appraisal (Dated November 2018)
- Protected Species Surveys (Dated August 2019)
- Transport Statement (Dated March 2024 prepared by Evoke)
- Access Mitigation Measures & Drawings R-19-0045-02 Dated 22 August 2024 by Evoke.
- Biodiversity Net Gain assessment (Date February 2024)
- 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)

1.8 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 was originally subject to significant interest from the local community and was subject to a 'call in' by Cllr Chris Brown (Dated April 2021).

3. The Site:

- 3.1 The site comprising 3.2 hectares, is a designated allocated site known as (f - Kings Hill) as set out in Policy H1 of the Development Land Allocations DPD (adopted April 2008). The allocated sites description is as follows:

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

- 3.2 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 and sapling trees, within the settlement confines of Kings Hill.
- 3.3 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 parcels of 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 is designated as a local wildlife site.
- 3.4 Allotments and playing fields are located to the north-east of the boundary site. 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 is also within the Archaeological Notification Area and falls within Flood Zone 1.

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 - Information letter – 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
In relation to full planning permission for the development of up to 65 dwellings (all matters reserved other than access).

5. Consultees:

5.1 There have been some comments raised in relation to the whether all third party comments are available to view, following the Council's move from one operating system to another. The Council has checked our previous system and current system as well as the public portal and are confident there does not appear to be any missing representations.

5.2 Whilst comments have been summarised for the purpose of this report, and all comments have been reviewed in full and taking into consideration.

5.3 Kings Hill Parish Council:

5.4 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

5.5 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.

5.6 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.

5.7 Kent Fire & Rescue Service:

(First response 16 April 2021 – with emergency access) Considered the off-site access requirements of the Fire & Rescue Service have been met. 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.

(Second response 24 May 2024) Whilst reference has been made to the Kent Design Guide it is noted that this is a guidance document and not enforceable. If the developer wished to move away from the guidance (and remove the emergency access), they should offer up some form of mitigation to offset the potential increased risk.

(Third response 20 September 2024 – without emergency access) I can confirm that the presented document R-19-0045-02 – Land off Clearheart Lane, Kings Hill is an accurate representation of the discussion had between KFRS and Evoke Transport. The additional access width as demonstrated on drawing number R-19-0045-012 is considered sufficient mitigation in this case to compensate for the loss of the alternative emergency access road.

The alternative routes as indicated on drawing no. R-19-0045/012 whilst discussed would not be considered as mitigation as they would not allow the requirements under B5 of the Building Regulations 2010 to be achieved.

Fire Service access and facility provisions are a requirement under B5 of the Building Regulations 2010 and must be complied with to the satisfaction of the Building Control Authority. A full plans submission should be made to the relevant building control body who have a statutory obligation to consult with the Fire and Rescue Service.

5.8 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.

5.9 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.

5.10 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.

5.11 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.

5.12 KCC Ecology:

(First response 28 April 2021) Additional information required prior to determination.

(Second response 13 December 2022) 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.

(Third response 26 April 2024) We are satisfied that the ecology surveys provide a good understanding of the ecological interest of the site however we highlight that the ecological surveys are over 2 years and therefore updated surveys are required. While we are satisfied that the conclusions of the submitted surveys are sufficient to inform the planning application updated surveys will be required to inform the detailed mitigation strategy.

(Fourth response 11 October 2024) Broad recommendations for the mitigation has 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 10m 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

We are generally satisfied with the principle of what has been proposed however we highlight that reptile have different habitats requirements to dormouse and the breeding birds recorded within the site. As the reptile, the dormouse and breeding bird habitat creation/enhancement will include the woodland area to the south of the site there is a need to ensure that the management/enhancement of these areas will be designed to ensure that they can support all three species.

The submitted information has detailed that the following enhancement features will be incorporated into the site:

- 8 integrated bird boxes
- 5 bird boxes in the site
- 2 tawny owl boxes
- 4 integrated bat boxes and 4 bat tiles
- 4 bat boxes in the site
- Hedgehog highways
- 4 hedgehog boxes

As the development is for 65 dwellings we would recommend that additional enhancements features can be incorporated in to the buildings.

A biodiversity net gain (BNG) report has been submitted and it has detailed that the proposal will result in a 10% net gain.

The net gain of the proposal is based on the proposal to carry out off site woodland, scrub and tree planting in an offsite location within the TMBC boundary. The site to be enhanced is currently an arable field.

We have reviewed the submitted report and we do agree that the woodland and scrub creation can be implemented within the site. We note that the majority of the habitat creation to be implemented is scrub rather than woodland and we presume that this is because scrub provides a greater value on the metric and enables the applicant that over 10% BNG has been achieved. However we do

acknowledge that the area of woodland to be created within the off site mitigation area is greater than there area to be lost.

We recommend that there will be the need for a number of ecological conditions to be included if planning permission is granted. We have reviewed the December committee paper which has included the recommended conditions. Where we agree with the wording but have included amendments or additional suggestions where applicable. We have also added additional suggested condition wording.

KCC ecology has reviewed the conditions suggested in the committee report and have agreed the wording.

5.13 KCC Highway

(First response 5 May 2021) It is noted that the proposals are a resubmission of previous proposals, TMBC reference: 20/01401/OA. This response should be read in conjunction with Kent County Council (KCC) Highway's consultation response to the previous withdrawn application. The quantum of development proposed in this application is identical to that previously proposed. Therefore, KCC Highways previous comments remain pertinent and valid to this application also.

To address concerns about the impact upon ancient woodland the applicant has relocated the proposed emergency access further east. 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 Update subject to re-consultation minus the emergency access.

(Second response 11 April 2024) The Transport Statement (TS) sets out that it is no longer proposed to offer the previously agreed emergency access via Ketridge Lane. Whilst not specified within the updated TS, KCC Highways understanding is that this is due to the need for works, which it is deemed would have an unacceptable impact on the woodland that surrounds the route.

The Kent Design Guide states that when a development exceeds 50 dwellings, an emergency access is recommended for network resilience, as well as emergency access reasons. KCC Highways therefore maintain the view that it would be preferential for the emergency access to be retained, particularly given how Clearheart Lane already serves a reasonable number of dwellings and is not a through route.

Additionally, it is strongly recommended that the views of Kent Fire and Rescue Service (*KFRS*) are sought, given how they would be the primary responders in the event of an incident occurring. Subject to KFRS agreeing that the revised

access strategy is suitable for their requirements, it is not considered that an objection based upon a lack of emergency access in isolation would represent reasonable grounds for objection.

(Third response 16 September 2024) KCC Highways note that the applicant has submitted a fire access strategy, which it is understood KFRS are agreeable to. I can therefore confirm that KCC Highways position remains as set out in our previous response.

5.14 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.

5.15 It is noted that in August 2023 KCC updated its Developer Contributions Guide as such the figures listed above could be subject to change.

5.16 Kent Police:

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

5.17 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 compliant.

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

5.18 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.

5.19 Other/Third party representations

5.20 A site notice was displayed on the 13-04-21 and an advert was published in the Kent messenger on the 15-04-2021. A total of 1,464 surrounding addresses were notified by letter.

5.21 Following the first round of consultation in 2021, 1486 representations objection to the application were received.

5.22 A further round of consultation was conducted in November 2023 which resulted in a further 45 representations which were broadly similar to those detailed above. These included comments in relation to tree removal, highway safety concerns, lack of facilities such as schools/doctors, increase in traffic and pollution, destruction of ancient woodland, loss of visual amenity, cramped layout.

5.23 Further representations have continued to be received through the duration of the application. There is also an online petition with 557 signatures (at the time of writing this report).

5.24 Comments are summarised are as followed:

- 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.
- People who love living here will be forced to move due to the area changing, and becoming more populated.
- Attract more people which could lead to the area changing for the worse which could add more crime, ASB and un-wanted behaviour etc.
- The development proposed is on land categorised historically as brownfield but has long since been reclaimed by nature including trees and wildlife that the state of nature report 2019 found is in decline.
- The development proposed is on land categorised historically as brownfield but has long since been reclaimed by nature including trees and wildlife that the state of nature report 2019 found is in decline.
- Kings Hill is a vast development, which has struggling infrastructure and lack of resources. Schools are over subscribed, GP surgery is over-stretched and there is no secondary school.
- The transport/location report also creates the impression that there is transport to The Malling school. Whilst this is true for older children it's no longer a reality for younger children as we are so over populated we are no longer in the catchment area for our closest secondary school.

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 Council's latest published housing land supply position as of December 2023 is 4.36 years. This means that the presumption in favour of sustainable development as set out at paragraph 11 of the Framework (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.

6.2 The development plan must remain the starting point for determining any planning application (as statutorily required by s38 (6) of the Planning and Compulsory Purchase Act 2006) which is overtly reiterated at paragraph 12 of the NPPF, the consequence of this must be an exercise to establish conformity between the development plan and the policies contained within the Framework as a whole and thus ultimately the acceptability of the scheme for determination.

6.3 The site is adjacent to the Green Belt and Ancient Woodland, however these designations are not directly on the site and therefore paragraph 11 (i) is not engaged in this case. The proposal would now be assessed on paragraph 11 (ii) and whether 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.

6.4 The site is a designated site as identified in the of the Development Land Allocations DPD (April 2008) know as Policy H1 (f – Kings Hill) a matter which is to be attributed significant positive weight in the overall planning balance.

6.5 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.

6.6 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:

7.1 As already stated above the application is in Outline form, with all matters reserved for future considerations with the exception of Access.

7.2 Material considerations are:

- 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

- 7.3 The site, as stated above, is an allocated development site as stipulated in the adopted Managing Development and the Environment Development Plan Document 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

- 7.4 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 arrangement is shown in reference R-19-0045-001 Rev B and in a location wide proposed access plan reference CL-16410-01 006 Rev H.
- 7.5 A point of difference between the previous/original (now superseded plans) and the current access arrangement plan is the removal of the identified emergency access via Ketrige Lane to Teston Lane.
- 7.6 Turning first to the removal of the emergency access. Following a review of the context of Ketrige Lane including the character of the woodland, presence of veteran soils, quantum of upgrades required, the emergency access has been removed from the plans.
- 7.7 It is noted in the Kent Design guidance it states:

“Generally (development) serving up to 100 dwellings, including those in other residential areas which feed onto it. The road should either be a through-road or, if a cul-de-sac, serve no more than 50 dwellings unless an alternative emergency access route, to serve also as a pedestrian and cycle route, can be provided”.

- 7.8 However, it is important to note that this is guidance which has not formally been adopted by TMBC, therefore limited weight is given to the guidance. It is also noted other sites of similar size and scale, including but not limited to, the outline approval for 106 dwellings in Allington under planning reference TM/19/00376/OAEA, since approved reserved matters under Reference 23/01522 have been approved without an emergency access. Therefore the stance of the guidance must be judged against the overriding context of the site.
- 7.9 KCC in their response dated 11 April 2024, acknowledge that it would be 'preferential' for an emergency access to be retained, however, in relation to the removal of the emergency access, it was strongly recommended by KCC Highways that the views of Kent Fire and Rescue Services (KFRS) were sought with KCC concluding *"subject to KFRS agreeing that a revised access strategy is suitable for their requirements it is not considered that an objection based upon a lack of emergency access in isolation would represent reasonable grounds for objection"*.
- 7.10 In this regard KFRS were reconsulted following the omission of the emergency access, in their response dated 24 May 2024, it was noted that the Kent Design Guide is a guidance document and not enforceable. KFRS noted that if the developer wishes to move away from the guidance (removing the emergency access) they should offer up some form of mitigation to offset the potential increased risk.
- 7.11 Following discussions between KFRS, the applicants transport consultant and the applicant/agent, mitigation measure have been proposed.
- 7.12 The proposed access via Clearheart Lane has been designed to a width of 6.0m with 2.0m footways on both sides of the carriageway. This exceeds the 4.8m minimum access width requirement outlined within KCC's Design Guidance for a minor access road and provides a total useable width of 10.0m for an emergency vehicle to access the site.
- 7.13 The usable width would be further extended to 13.7m when taking into account the grass verges on either side of the carriageway. (see drawing R-19-0045-HY-01 (appendix 1 Technical Note). At the request of KFRS, the footway and adjacent verge (within the highway extent and land controlled by the Applicant) would be provided to accommodate a 16-tonnes fire tender. This has been shown indicatively on Evoke Drawing R-19-0045-001 Rev C.
- 7.14 The previously identified emergency access is not considered deliverable, or suitable. The single access from Clearheart Lane in this instance provides sufficient grounds for approval especially bearing in mind the NPPF 's requirement for a presumption in favour of sustainable development and acceptability of proposals in all other highway terms. The lack of an emergency access is not viewed by Officers to prevent a safe and sustainable development grounds for objection.

- 7.15 In the unlikely event that the access becomes blocked for any reason, the additional width at the point of access would further help to maintain a clear route for emergency vehicles as the carriage would and footway will provide a 10m useable width (extending to 13.7m including the verge as noted above).
- 7.16 In view of KFRS comments which confirm they are satisfied with the mitigation measure proposed, no sustainable objection is raised by KCC Highways.
- 7.17 Turning to the access itself. Paragraph 115 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.”*
- 7.18 Policy SQ8 states that development proposals will only be permitted where they would not significantly harm Highway safety.
- 7.19 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. It is acknowledged that the proposals will have the effect of changing the function of the road to a through road serving a larger residential development.
- 7.20 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.
- 7.21 Regarding the existing impact and relationship with Clearheart Lane, KCC 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”*.
- 7.22 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 consent be granted. 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

- 7.23 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

- 7.24 The proposal is 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.
- 7.25 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.
- 7.26 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

- 7.27 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-19-0045-012). Based on the submitted information there is sufficient access and turning circles for the proposed layout.

Summary of access considerations

- 7.28 The proposed access to the site is considered acceptable and policy compliant subject to all plans and obligations adhered to. Final detailed parking, internal layout turning and servicing shall all be subject to Reserved Matters.

Biodiversity impacts and mitigation:

- 7.29 Para. 180 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.
- 7.30 Para 186 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”*.
- 7.31 Para 188 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”*.
- 7.32 The applicant submitted an updated Biodiversity Net gain assessment (dated February 2024 prepared by Greenspace ecological solutions, ref Report Number J20981_P7_BNG_Rev D).
- 7.33 To achieve a biodiversity net gain on site and move towards the requirement for 10% net gain as part of new regulations, 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 10.38% increase in Biodiversity can be realised.
- 7.34 For clarification purposes the use of 2.0 biodiversity metric to measure net gain is retained for the development on account the submission being made prior to the Environment Act (2021) becoming Law on the 12th February 2024. Government guidance which states that there is no mandatory requirement to demonstrate BNG through use of a Metric for applications submitted prior to 12th February 2024, KCC Ecology and TMBC officers agreed in principle to allow continued use of the Metric 2 in this instance.
- 7.35 In addition, major planning applications submitted prior to the 12th of February 2024 are not retrospectively applied the 10% net gain. As such, the site does

not technically need to provide the 10% net gain, only a “net gain” which can be as little as 1%. Notwithstanding the policy context surrounding the net gain requirement, the applicant seeks to provide and meet the 10% net gain.

- 7.36 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. In the interest of transparency, the initial site for off-mitigation advanced in the Biodiversity Net Gain document provided in 2022 by the applicant has been discounted and removed from consideration.
- 7.37 The new mitigation site is an area located circa 5.32km southwest of the site boundary (as presented in Figure 6 of the report) and is currently 2,62ha of cropland used for cereal production but this is not a reason to object to the site.
- 7.38 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 10.38% 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:

- 7.39 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.
- 7.40 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.
- 7.41 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.
- 7.42 The site is not subject to any ecological designations and therefore is not subject to any over 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.

- 7.43 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.
- 7.44 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.
- 7.45 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*. The identified bats were foraging and commuting between habitats and roosts outside the site perimeter.

- 7.46 KCC ecology advice, recommend that there will be the need for a number of ecological conditions to be included if planning permission is granted. Condition 24 includes the need for updated ecological surveys due to the time that has lapsed since the original surveys were carried out.

Impact on trees

- 7.47 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.
- 7.48 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.
- 7.49 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.
- 7.50 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.
- 7.51 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:

7.52 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.

7.53 The approval of the specific size, type and tenure of affordable housing and implementation of the provision will be secured under a S106 agreement to ensure that the provision comes forward in a manner that reflects and meets local need.

Land Contamination:

7.54 Paragraph 189 of the NPPF (2023) states that planning policies and decisions should ensure that:

7.55 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);

7.56 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

7.57 c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.

7.58 Paragraph 190 of the NPPF (2023) 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.

7.59 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.

- 7.60 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.
- 7.61 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

- 7.62 Paragraph 173 of the NPPF (2023) 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”.
- 7.63 Para 175 NPPF (2023) 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”.

7.64 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”.

7.65 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”*.

7.66 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.

7.67 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

7.68 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”.

7.69 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:

- 7.70 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:

- 7.71 Para 131 NPPF 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”*.
- 7.72 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.
- 7.73 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

- 7.74 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

- 7.75 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.

- 7.76 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

- 7.77 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

- 7.78 The planning application is in outline form (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
- 7.79 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

- 7.80 Para 135 of the NPPF (2023) seeks 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.
- 7.81 Para 136 of the NPPF (2023) 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.

7.82 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:

7.83 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 158 to 164 of the NPPF (2023) are relevant and demonstrate that the Council's Climate Change Strategy can be considered a material consideration.

7.84 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.

7.85 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.

7.86 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:

- 7.87 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,

“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.”

- 7.88 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:

- 7.89 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

- 7.90 (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

- 7.91 Policy CP25 of the TMBCS states that:

1. Development will not be proposed in the LDF or permitted unless the service, transport and community infrastructure necessary to serve it is either available, or will be made available by the time it is needed. All development proposals must therefore either incorporate the infrastructure required as a result of the scheme, or make provision for financial contributions and/or land to secure such infrastructure or service provision at the time it is needed, by means of conditions or a planning obligation.
2. Where development that causes material harm to a natural or historic resource is exceptionally justified, appropriate mitigation measures will be required to minimise or counteract any adverse impacts. Where the implementation of appropriate mitigation is still likely to result in a residual adverse impact then compensatory measures will be required.

7.92 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.

7.93 As stated above in August 2023 KCC updated its Developer Contributions Guide and therefore these figures could be subject to change.

7.94 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

7.95 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 s.106 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.

7.96 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:

7.97 Since the Council cannot demonstrate a five year 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 in this case 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.

- 7.98 The proposed development would provide a policy compliant development of 65 residential dwellings, it would also
- 7.99 The proposed development would also provide 40% affordable housing on-site which would contribute to addressing a recognised need for affordable housing in the Borough.
- 7.100 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. Moreover, despite being an undeveloped parcel of land the application site is included within the urban area boundary of Kings Hill.
- 7.101 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 40% of which would comprise policy compliant affordable provision. In light of the presumption in favour of sustainable development and the tilted balance, this needs to be given significant weight.

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. KCC 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 result in demonstratable harm as per Para 11 of the NPPF (2023).

9. Recommendation – Approve subject to conditions and S.106 agreement:

- 9.1 Approve planning permission subject to:

9.2 The applicant entering into a legal agreement in respect of:

- 40% affordable housing
- Off-site open space provision
- Education provision, community facilities and services (KCC Economic Development)
- Off-Site BNG and monitoring

9.3 The following 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:

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

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

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

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

Site Access Arrangement (Ref R-19-0045-001 Rev B)

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

Access Mitigation Measures & Drawings R-19-0045-02

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 IG3 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. The fire mitigation measures as detailed in the Access Mitigation Measures & Drawings R-19-0045-02 Dated 22 August 2024 by Evoke hereby approved shall be completed prior to the occupation of the first dwelling and thereafter shall be fully retained and maintained as such for the lifetime of the development.

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 or the latest guidance used by TMDC and KCC at the time of the reserved matters application.

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

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)

22. 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 **February/March 2024) 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 February/March 2024) 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.

23. 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:

- Overview of habitat creation and enhancements proposed
- 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 and
- Details of initial aftercare.

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.

24. Subject to the implementation of subpart (2) of condition 22, a detailed Ecological 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:

- Updated ecological surveys
- 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.

25. Prior to occupation a Landscape and Ecological Management Plan (LEMP) for the development site will be submitted to, and be approved in writing by, the local planning authority. The content of the LEMP will be based on the information submitted in the ecological mitigation strategy (condition 22) and the ecological design strategy (condition 23) and include the following:

- Description and evaluation of features to be managed;
- Constraints on site that might influence management;
- Aims and objectives of management;
- Appropriate management prescriptions for achieving aims and objectives;
- Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- Details of the body or organisation responsible for implementation of the plan, and;
- Ongoing monitoring and updates to the management plan

The LEMP will include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

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

26. Prior to works commencing on the development site a Habitat Creation and Ecological Management Plan (HCEMP) for the off site woodland creation area will be submitted to, and be approved in writing by, the local planning authority. The content of the HCEMP will be based on the information submitted within the biodiversity gain plan submitted as part of condition 22 and include the following:

- Aims and objectives of habitat creation works
- Habitat plan of proposed habitats
- Management required to establish the habitats on site.

- Aims and objectives of long term management once habitats have established;
- Appropriate management prescriptions for achieving aims and objectives;
- Constraints on site that might influence management;
- Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- Details of the body or organisation responsible for implementation of the plan, and;
- Ongoing monitoring and updates to the management plan

The HCEMP will include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

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

27. From the first occupation of the development site a monitoring report of both the on and off site habitat creation/enhancement works in years 3, 5, 10 a monitoring report must be submitted to the LPA for written approval demonstrating the results of the on and off site habitat creation/enhancement works. The report must detail what changes to the management plan have been proposed if the monitoring has demonstrated that the aims and objectives of either management plan have not been met. The approved monitoring report will be implemented in accordance with the approved details.

Reason: To ensure that the ecological enhancements envisage for the site are monitored and maintained.

28. Prior to the first occupation of the residential development, the 15m buffer zone between the ancient woodland to the north, south and west 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 22 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

29. 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

30. 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.

Security

31. 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

32. 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.

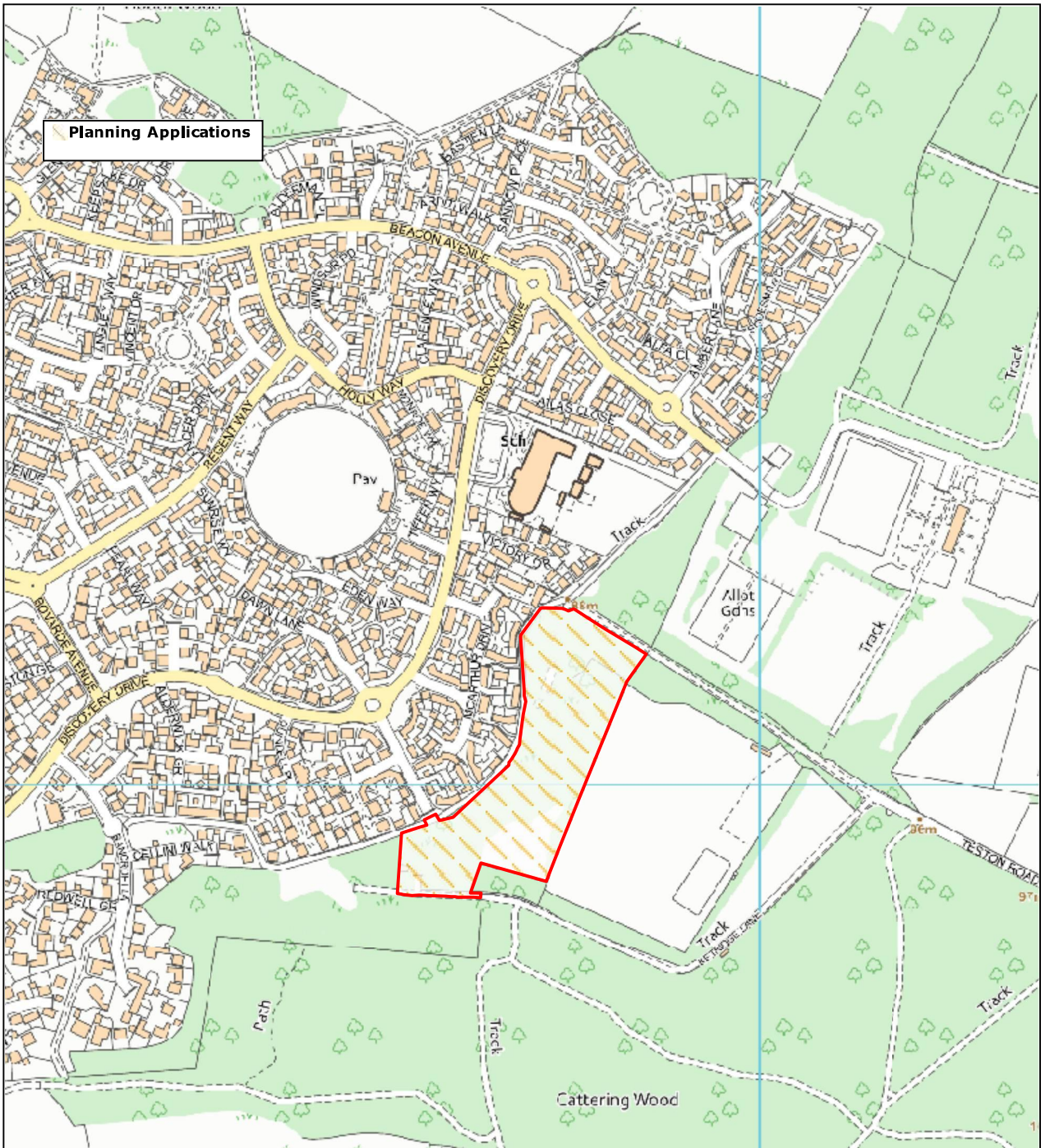
Reason: To ensure that the development does not harm the character and appearance of the area or the visual amenity of the locality.

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.
3. 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.
4. The Borough Council will need to create new street name(s) for this development together with a new street numbering scheme. To discuss the arrangements for the allocation of new street names and numbers you are asked to write to Street Naming & Numbering, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or to email 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.
5. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.
6. 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.
7. Although it would not be possible at this stage under Environmental Health legislation to prohibit the disposal of waste by incineration, the use of bonfires

could lead to justified complaints from local residents. The disposal of demolition waste by incineration is also contrary to Waste Management Legislation. It is recommend that bonfires not be had at the site.

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Planning Applications 21/00881/OA

Scale: 1:5000



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 Kings Hill, West Malling
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Date: 18/10/2024 10:59

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East Malling, West Malling and Offham

TM/23/03060

East Malling and Larkfield

Location: Land west of Stickens Lane Mill Street and southwest of Clare Lane East Malling West Malling

Proposal: Outline Application: The erection of up to 150 dwellings (including affordable housing) with public open space, landscaping, sustainable drainage system (SuDS) and vehicular access point. All matters reserved except for means of access.

Go to: [Recommendation](#)

Executive Summary:

- The application seeks outline planning permission, with all matters reserved for future consideration apart from access for 150 dwellings with 40% of these being affordable properties.
- The means of access is indicated as being in the north of the site, taken from the south side of Clare Lane. Alterations are proposed to the existing highway along Clare Lane to be covered by a separate S278 agreement.
- The site is outside the settlement boundary of East Malling Village however due to the borough not having a 5-year housing land supply, the presumption in favour of sustainable development test at paragraph 11 of the NPPF is applied.
- Firstly, it is assessed whether the NPPF policies protecting areas and assets of particular importance provide a clear reason for refusing the development. It is considered that the development would not conflict with the NPPF policies in relation to flood risk and designated heritage assets (paragraph 11 (d) (i) of the NPPF).
- As such the presumption in favour of sustainable development set out at paragraph 11 (d) (ii) is applied, thereby granting planning permission 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.
- This study assesses the development against material planning considerations, including non-designated heritage assets, drainage, locational characteristics and associated impacts, agricultural land quality, character and pattern of development, impact upon visual amenities, open space, access, highways and transport, ecology, biodiversity, trees, noise, light and air pollution, contamination, archaeology and minerals. The development is considered acceptable in all of these aspects.

- The development includes developer contributions to be secured in a legal agreement, including financial contributions towards education and community services, PROW improvements, healthcare, offsite open space and community facilities, in addition to securing monitoring off-site biodiversity net gain and 40% on site affordable housing. The development would contribute significantly to meeting this need for affordable housing and housing generally. The development would also deliver a wide range of social, economic and environmental benefits.
- This study concludes that there would be no adverse impacts of granting planning permission for the development that would significantly and demonstrably outweigh the benefits that the development would bring, when assessed against the policies in the Framework taken as a whole.
- It is therefore recommended that Outline Planning Permission be granted subject to a legal agreement to secure the on-site affordable housing, BNG monitoring and developer contributions and planning conditions and informatives to ensure that the development comes forward in an acceptable, high-quality fashion.

1. Description of Proposal:

- 1.1 Outline planning permission, with all matters reserved for future consideration apart from access is sought for the development of up to 150 dwellings, of which 40 percent would be affordable. The development would be supported by associated public open space, landscaping and sustainable drainage (SuDS).
- 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. Subject to approval of the outline planning application, these other matters will be covered by subsequent reserved matters planning applications.
- 1.3 The means of access is indicated as being in the north of the site, taken from the south side of Clare Lane. Alterations are proposed to the existing highway along Clare Lane to be covered by a separate S278 agreement should planning permission be granted, including the addition of 30mph repeater signs, relocated 30mph rondel signs reinforced with red background, reinforced existing 30mph rondels, a new welcome to East Malling sign, speed activated sign, new lighting columns and the creation of a pathway along the south side of Clare Lane, crossing to the north side of Clare Lane in-front of the Malling school.
- 1.4 In addition, indicative plans which will guide the detailed design of the scheme (the reserved matters) in the event that outline planning permission is granted have been put forward as follows:
 - A Development Framework plan which shows a proposed residential area of 3.77ha of up to 132 dwellings at 35 dwellings per hectare and a proposed lower density residential area of 0.60ha of up to 18 dwellings at 30 dwellings per

hectare. It shows the rough areas of both primary and secondary streets, alongside private drives/lanes and shared streets. Areas of open space are illustrated, including a Locally Equipped Area of Play, community orchard, recreational routes, wildlife pond and wildflower meadows, alongside areas of retained and new landscaping by way of trees and hedgerows.

- A Building Heights Parameters Plan indicating that the scale of the dwellings shall be between one and a half storeys to two and a half storeys (dwellings with rooms within loft spaces).
- Design & Access Statement, setting out a design vision, use and amount of residential development, green infrastructure and public open space, green infrastructure details, revised illustrative masterplan and indicative external appearance, facing materials, roofscape and boundary treatments and six design principles which are detailed as follows:
 1. To retain structural vegetation where possible and enhance the existing landscaping through new planting of native and appropriate tree and hedgerow species. The existing landscaping will inform the layout. The A Category oak tree situated adjacent to the existing public footpath will be retained within a green corridor and will form a focal space. In addition to the retention of this tree, the group of trees which extend south west of it will also be retained in a green corridor which penetrates the development, helping to break up the built form of the proposed development and contribute to the verdant character. In the northern part of the site, the existing group of silver birch trees which run along the site's north western boundary will be retained to help filter views of the new homes and access street from the existing properties on Broadwater Road to the west.
 2. A central area of public open space adjacent to the retained oak tree and the existing public footpath and will be appropriately overlooked by the new homes. The public open space will offer space for formal and informal recreation and will include a new equipped children's play area in the form of a Locally Equipped Area for Play. The open space will also be enhanced with new tree and wildflower planting, and will include new sustainable drainage system (SuDS) features in the form of an attenuation basin and a soakaway trench. The public open space will form a focal point to the new neighbourhood, and will be easily accessible to new residents of the proposed development as well as existing residents of East Malling.
 3. Dense planting along Clare Lane, by way of new tree and thicket planting provided adjacent to the new access point from Clare Lane to ensure that the existing vegetation which will require removal to facilitate the access point is replaced as far as practically possible. This replacement landscaping will be of appropriate species, and will assist in filtering the views of the proposed new homes from the Clare Park and Blacklands Conservation Area.

4. Undeveloped southern edge because the southern part of the site is located on the highest ground, and is therefore the most visually sensitive area. Therefore, this part of the site will be left free from any built development, and an open space measuring between 15m and 40m in width, is proposed between the edge of the development and the site's southern boundary, adjacent to the railway line. Also, an area of existing grassland in this part of the site will be retained and enhanced.
5. Streets for all by adopting 'Building for a Healthy Life', which highlights the importance of creating high quality, more inclusive streets which are designed to balance the need to accommodate the movement of motor vehicles alongside the need for people to move along and cross streets with ease. These measures include low-speed streets, encouraging walking, cycling and outdoor play, street trees, pedestrian/cycle priority and a shared street space. The proposed new development shall include street trees and green verges along its primary street to signify its importance as the main route through the development, whilst also providing a verdant character to the street. These street trees and green verges will radiate outwards to the peripheral parts of the site via the proposed secondary streets, which will give the feeling of the open spaces around the edges of the site being drawn through the residential parcels.
6. Lower density/farmyard style buildings for the housing located in the western part of the site. The form of these properties is indicated to be reflective of the rural, farmhouse character of the area, and particularly of Cobb's Hall, ensuring an appropriate transition is created between the new settlement edge and the countryside to the west of the site. Shared street spaces are also proposed, and will be located at key junctions and crossing points to control traffic speeds, create a sense of place, and to prioritise pedestrian and cycle movement around the site.

2. Reason for reporting to Committee:

- 2.1 At the request of Councillor Roger Roud, and supported by Ward Councillor Michelle Tatton, to enable the committee to consider the impact of the proposals in relation to the impact upon the countryside, agricultural land, Conservation Areas/heritage, highways, access, pedestrian safety, light pollution, trees, biodiversity and archaeology.

3. The Site:

- 3.1 The site is an area of approximately 6.8 hectares to the west of East Malling village, south side of Clare Lane, and to the west of Mill Street and Stickens Lane. It consists of three agricultural fields and part of PROW MR117. The site is outside but adjacent to the western village settlement boundary of East Malling.

- 3.2 The site is bound by Clare Lane and Public Right of Way MR117 to the north, existing arable fields to the west, the London to Ashford via Maidstone railway line to the south, and rear gardens of existing properties along Mill Street, Darcy Court and Stickens Lane to the east.
- 3.3 The Clare Park and Blacklands Conservation Area is to the north of the site and covers a small part of the access and the proposed pathway along Clare Lane. There is also the Clare House Historic Park and Garden Non-designated heritage asset to the north. To the east of the site there is also the Mill Street East Malling Conservation Area.
- 3.4 A grassed field forms the northern part of the site (GF1), and is linear in nature, extending southwards from Clare Lane in the north. GF1 is comprised of amenity grass and is bound by a tree belt (silver birches) along its western extent. To the east, GF1 is bound by the adjoining house and garden wall in the north, with the southern part of the eastern boundary marked by post-and-rail and post-and-wire fencing. A vegetated embankment, around 2.5m in height, bounds GF1 to the north, with Clare Lane beyond. To the south, GF1 is bound by an outgrown hedgerow and scrub, with the route of the public footpath MR117 beyond. A mature Category A Oak tree is sited within the eastern side of the southern hedgerow boundary of GF1.
- 3.5 The largest part of the site comprises the grassed field in the south east (GF2). GF2 lies to the south of the public footpath and is separated from it by a post-and-wire fence. It is bound to the east and northeast by the rear garden timber fences of the properties on Darcy Close in the north, and also by that of the houses at numbers 10 and 15 Stickens Lane. The eastern site boundary in the south is marked by the edge of a mown strip of grass, with the managed ornamental hedgerow of the adjoining residential property located a short distance beyond. The southern site boundary is formed by a post and wire fence, with intermittent hedgerow and scrub vegetation along it, with the railway line beyond. The western boundary of GF2 is formed by a post-and-wire fence separating GF2 from the arable field to the west. There is intermittent hedgerow and scrub vegetation along this fence line, increasing in density and height to the north.
- 3.6 The southwestern field comprises a narrow strip along the east of a larger arable field (A). The southern boundary is formed by the continuation of the vegetation along the railway line, and the northern boundary is formed by a 2m high hedgerow, with the public footpath located beyond. The western boundary is unmarked on the ground.
- 3.7 The southern part of the site is located on a shallow north-facing slope, with the grassed field in the north of the site sloping down towards the southeast. The southern part of the site slopes down gently to a shallow valley along the public footpath within it, from a high point at around 40m above Ordnance Datum (AOD) in the southeastern corner, to a low point of around 30m AOD at the eastern end of the public footpath within the site. The northern part of the site slopes down from the

north western corner at around 36.5m AOD, to around 31m AOD at the south eastern corner. The land to the west of the site continues to rise gently towards the A228, while the land to the east and north of the site is at a similar topography to it. To the south, the land continues to gently rise to a plateau along Well Street.

4. Planning History (relevant):

- 4.1 There have been a number of planning applications for various parts of this site over time, however many of these were only for parts of the application site and the applications are over 50 years old, therefore they were assessed under a different planning policy context.

TM/59/10508/OLD - Refuse - 02 September 1959

Outline Application for residential development.

TM/61/10641/OLD - Refuse - 17 October 1961

An outline application for residential development and vehicular accesses.

TM/63/10814/OLD - Refuse - 30 July 1963

Outline application for residential development with access roads, for Executors of L.L. Godden.

TM/64/10634/OLD - Refuse - 08 December 1964

Erection of dwellings.

TM/64/10635/OLD - Refuse - 08 December 1964

Erection of dwellings.

TM/67/10745/OLD - Refuse - 04 January 1967

Erection of dwellinghouse and construction of access roads

TM/67/10747/OLD - Refuse - 04 January 1967

Residential Development and Access Roads (30 Acres)

TM/74/11931/OLD - Refuse - 25 March 1974

The erection of dwellings.

TM/74/11783/OLD - Refuse - 25 March 1974

Outline application for residential development. Superseded by MK/4/73/874.

5. Consultees:

5.1 All consultee and public comments are summarised below. Full copies of comments can be found on the Council's website.

5.2 East Malling and Larkfield PC:

Response 1:

Public footpath MR117 is affected by this application, with application being advertised for this reason alongside others. Path is excluded from the site plan save for a short section crossing the site. Path from Mill Street is unregistered land/ownership is unknown. Should a Public Notice be displayed on site as it is not in the applicant's control or ownership? As such, how would developers "upgrade" this path. Drainage might be achievable via this public footpath – presume landowner & KCC consent would be needed.

Response 2:

Strongly object to this application in principle for the reasons below.

- Site location 'west of Stickens Lane' misleading - sole access is off Clare Lane.
- Difficult seeing what other representations have been made.
- Who owns the route of the public path crossing the site?
- Site is in the countryside – contributes to the setting of East Malling rural village, with its Conservation Areas and many Listed Buildings.
- Countryside appreciated by local residents using public footpath MR117, with views of the converted Oast, listed Weir Mill and sense one is leaving the village.
- Cobbs Hall Listed Building is part of the general countryside feel.
- Development would switch site from being rural to urban (including the MR117).
- Access onto Clare Lane would urbanise the lane, especially the felling of trees.
- Clare Lane, Mill Street running eastwards from Clare Lane and Winterfield Lane or Lucks Hill unsuitable to accommodate additional traffic.
- Clare Lane has a "pinch point" by the Listed "Gardeners Cottage" where carriageway narrows, the lane has no pavements, crossroad at Couch Green also difficult and Winterfield Lane has no paths or lighting. Car/pedestrian conflicts.
- East along Mill Street is a village road lacking pavements on both sides, with parking at points restricting the route to a single lane. Additional traffic should be avoided especially for pedestrian safety.
- Site is high quality Grade II agricultural land – issues with food security.
- Is the site sustainable? No regular bus services serving the site, nearest regular buses into Maidstone from A20. East Malling village has no shops – only a pub,

church, café and hairdresser. Train services at East Malling are slower and less frequent than West Malling. Site will be car dependent.

Response 3:

- Still object to the principle of development.
- Layout slightly improved – how houses are positioned. Although a reserved matter, there is also now an indication that they would draw on the Millward development at Kiln Barn Lane in terms of design of properties/materials. Would be much more in keeping with the village location.
- Would prefer heavier screening on Clare Lane so that the development is not easily visible – similar to the entrance to Clare Wood Drive. The Site Access Indicative Landscape Strategy okay, but Access Visualisation drawing not.
- Gate leading from Darcy Court – makes sense for this to be closed up with fencing/hedging to prevent pedestrians climbing the gate.
- PROW officer has no objection in principle to the MR117 being used for emergency vehicles. Is the track wide enough to accommodate emergency vehicles safely?
- Do not like to see rural paths urbanised with hard surfacing and lighting. Could form the emergency access via the existing gate.
- Speed surveys indicate that speeding occurs – measures proposed insufficient to slow traffic.
- Street lighting/traffic calming measures will urbanise the lane.
- Extent of highway land needs checking for the proposed Clare Lane path.
- Is path on Clare Lane necessary – will be urbanising? More likely and safer to use MR117.
- Assumes residents will only want to walk towards East Malling – should provide paths/access westwards for likely journeys going to West Malling. No longer possible to get a bus to West Malling via Clare Lane except on a Friday.
- Blacklands (Public Path MR118) only has 2 lights.
- Support proposed financial contribution for speed limit reduction on Mill Street.
- Contrary to applicants submission, the footpaths on route to East Malling station are not on both or one side at least – no pavement in front of the listed horse pond - area is prone to flooding. Pavements are narrow, with bad splays.
- Residents more likely to go to West Malling Station. Traffic assessments suggest the majority of traffic will be westwards, difficult at the bend at Winterfield. Likely more people will drive when they do not feel safe walking.
- No easy disabled access at East Malling.
- Vehicle distribution statistics consider unrealistic.
- Bird survey did not record Tawny Owls or Little Owls, nor Sparrowhawks, all of which are present within Clare Park and Blacklands Conservation Area.
- The site and immediate local area are rich in bird life.
- Dark skies are important. There is limited lighting locally. Parish Council would like more control of lighting.
- Concerned about cumulative loss of BMV Agricultural Land

Response 4:

- No streetlights in Busbridge Close or Clare Wood Drive. Proposed street lights are an urbanising feature.
- Issues with siting of telecommunications equipment on land outside ownership

5.3 West Malling PC:

Response 1:

Strongly object for the following reasons:

- Loss of the open countryside between East and West Malling.
- Unsustainable increase in traffic on Clare Lane, Winterfield Lane and the A20 junction. More traffic movement coming into West Malling via Swan Street.
- Increase in traffic and pedestrians will have serious safety implications as the road is narrow in places with limited visibility.
- Clare Lane is at risk of flooding/is in flood zone 3.
- Loss of Grade 2 agricultural land.
- Land is proposed to form part of the Green Belt extension if agreed
- Lack of infrastructure; GP provision and other services.

Encourage all new developments within the parish to incorporate measures designed to reduce dependency on fossil fuels, measures to reduce water consumption and limit light pollution.

Response 2:

Strongly object for the following reasons:

- Land was proposed to be part of the Green Belt Extension in recent Local Plan and believed to be included in upcoming plan.
- Overdevelopment.
- Harm to setting of Grade II Listed Cobb's Hall.
- Dangerous site access due to narrow road width and speed of motorists.
- Single point of access for emergency vehicles is a significant risk.
- Will place unsustainable pressure on the local transport network. Bicycle and pedestrian journeys do not seem reasonable/evidenced. Underestimates anticipated vehicle movements. Does not reflect additional pressure by approved developments.
- Existing drainage issues adjacent to Darcy Court likely to cause issues.
- Does not provide the level of affordable homes recommended in the Government's current NPPF consultation.

5.4 KCC Highways:

Response 1:

- Access via a single all-purpose vehicular access onto Clare Lane – secondary access required.

- Traffic survey sets-out speeds are in excess of road limit. Request raw survey data is provided.
- Visibility for the access can be achieved in accordance with the observed speeds.
- Road safety audit recommendations all accepted.
- Traffic calming scheme proposed, however have concern with vertical deflection measures.
- Seek amendments to site access to enable larger vehicles to exit the site without overrunning adjacent lanes.
- Applicant proposes upgrades to existing PROW. Seek clarification if they have liaised with KCC PROW Team and whether the path can be lit to make the route more attractive.
- Seek a drawing of crossing facilities by the end of MR117.
- Seek to confirm whether a pathway along Clare Lane to East Malling village has been investigated.
- Schools, a public house, café and recreational facilities are within walking and cycling distance. To access further afield facilities, busier routes less likely to be used by cyclists.
- Train connection at East Malling reasonable, with limited bus services present. Clarification sought on whether operators have been contacted to provide an enhanced service.
- Framework Travel Plan sets-out how the applicant intends to encourage travel by more sustainable means.
- TRICS data selection reflects the sites location. In the AM peak (08:00-09:00) the development is anticipated to generate 69 trips (combined arrivals and departures) and 65 trips in the PM peak (17:00-18:00).
- Majority of traffic expected via the A20 with remaining traffic routing via Lucks Hill, High Street or Lunsford Lane, with approach acceptable.
- Request revised traffic survey assessments from a neutral period.
- Committed development has been accounted for in assessments based upon the TA's within the consented developments.
- Traffic Impact: Site Access junction with Clare Lane (Priority Junction) – confirms that the junction shall operate within capacity
- Traffic Impact: Lucks Hill/Winterfield Lane/Clare Lane/Broadwater Road (Staggered Junction) – revised assessment requested
- Traffic Impact: Winterfield Lane/Chapham Way (Priority Junction) – revised assessment requested
- Traffic Impact: A20, London Road/Lunsford Lane/Winterfield Lane (Signal Controlled Junction) – junction will operate over capacity, owing to marginal worsening conditions a highway-based objection is not considered reasonable or sustainable
- Traffic Impact: Mill Street and High Street (Highway Links) – confirmation of survey age requested.

- Matters relating to the development's internal layout, including parking, turning and servicing will be considered at a later stage.
- Revised Personal Injury Collision (PIC) Record data requested.
- Holding objection raised, requesting information to address points above.

Response 2:

- Applicant contends an emergency access is not essential – pointing towards sites in Swale. Therefore recommend consultation with Kent Fire & Rescue, who if they advise the access is acceptable, can remove highways objection.
- Raw data supporting visibility splays provided and vertical deflection measures removed – acceptable.
- Junction widened to accommodate larger vehicles turning – this reduces vehicle conflicts.
- Pathway along Clare Lane discounted due to adverse arboricultural impacts – do not consider this is sufficient justification.
- Concerns about upgrade of PROW MR117 owing to being unlit and lacking natural surveillance. Request revised pedestrian access strategy.
- Location of pedestrian crossing point provided – considered acceptable.
- Traffic Impact: Lucks Hill/Winterfield Lane/Clare Lane/Broadwater Road (Staggered Junction) and Winterfield Lane/Chapham Way (Priority Junction) – request revised assessments
- Traffic Impact: Mill Street and High Street (Highway Links) – following a review of information, despite some matters, it is not considered that the development would unacceptably impact upon safety or capacity.
- Up to date PIC data provided – request a copy of the D Print.
- Maintain a holding objection, requesting additional information to address the point above.

Response 3:

- A dedicated pedestrian link is proposed along Clare Lane, linking with existing facilities on Mill Street. Approach is appropriate and logical, allowing a direct and all-weather route to the village centre. Works shall need to be provided prior to occupations and via a S278 agreement.
- Off-site highway works subject to an independent stage 1 Road Safety Audit, with all recommendations incorporated.
- Additional traffic surveys have been completed, confirming junctions Lucks Hill/Winterfield Lane/Clare Lane/Broadwater Road and Winterfield Lane/Chapman Way will operate satisfactorily in the assessed future year, without any unacceptable levels of queuing or delays.
- D print previously requested still outstanding.
- Maintain holding objection due to outstanding D print.

Response 4:

- D print provided. Confirms that neither the highway layout nor any defects within it are a contributory factor in any of the recorded collisions.

- Having considered the development proposals and the effect on the highway network, raise no objection, subject to conditions relating to provision of offsite highways works prior to occupation, a construction management plan, provision of specific EV chargers, use of bound surface for first 5 metres from edge of highway, provision of cycle parking, completion of access prior to use commencing and provision and maintenance of visibility splays as submitted prior to site use.
- Series of standard informatives issued.

5.5 KCC LLFA:

Response 1:

- Proposal includes attenuating the wider catchment in an intercepting ditch at the west of the site to infiltrate to ground. The main site will be intercepted via permeable paving discharging to a detention basin and then discharged to an existing surface water sewer to the east of the site. A highway connection at the north of the site will connect to an existing surface water sewer.
- Ask for clarification to be provided with regards to site areas. Advise that discharge of flows leaving the site of 5l/s from the detention basin plus 1l/s from the adoptable highway could be above the QBAR greenfield rate.
- Recommend drainage features are not considerably deep. Recommend geo-cellular tanks are installed beneath the basin or by using safety features to ensure sufficient capacity.
- Infiltration testing and groundwater monitoring conducted where detention basin is proposed, these suggest acceptable infiltration rates, as such sewer connection queried.
- Holding objection raised.

Response 2:

- The majority of the site shall be drained via permeable pavements and a below ground drainage network to an attenuation basin.
- Basin may provide some infiltration, but is predominantly to attenuate flows prior to discharge to a sewer.
- A secondary discharge is proposed to the highway drain within Clare Lane.
- Estimated percentage impermeability of developable area with creep is low – queried.
- Discharge rate from the site is now in excess of QBAR. Northern sector shows potential for infiltration.
- Request testing is carried out to confirm whether infiltration is suitable for discharge of surface water for the northern access road. If not, there is a public surface water sewer on the far side of Clare Lane, with the last option of discharge to a highway drain.
- Since 10.05.2022, EA's climate change allowances have been updated. Seek a drainage design that adheres to this.
- Request previous comments regarding basin water depths are addressed
- Holding objection raised.

Response 3:

- Subject to advisories, recommend approval with conditions.
- Satisfied with impermeable area and allowance for creep.
- Climate change allowances adhere to current guidance.
- Cellular storage has been installed beneath the basin, adhering to guidance.
- Note that the discharge of water from access road has a range of methods for discharge.
- Recommend conditions for detailed sustainable drainage design and drainage verification.

5.6 KCC Heritage/Archaeology:

- Site lies in an area of potential associated with prehistoric and Roman activity, with settlement and villa sites known in the area.
- Site and its immediate surrounding fields have not had a formal investigation.
- Site lies to the west of East Malling - a Medieval settlement and may have been an early medieval community. There are historic post medieval farms around the site and remnant archaeological landscape features may survive on site.
- Heritage Statement provides a brief summary of the archaeological potential and is acceptable. Conclusion of low potential is likely due to insufficient information.
- Recommend an archaeological condition.

5.7 KCC Ecology:

Response 1:

- Ecological survey carried out in 2021 – seek confirmation that conclusions of ecological surveys are still valid.
- Survey provides a good understanding of the site and has detailed Grassland with Meadow vetchling and pyramid orchid recorded, hedgerow considered to be priority habitat, at least 6 species of foraging bats, trees with low bat potential, potential for harvest mouse, hedgehogs and invertebrates, suitable habitat for breeding birds and a breeding population of common lizards.
- No breeding bird surveys undertaken – clarification or submission of survey requested.
- Reptile population to be retained on site. Supportive of this, however as the receptor site will be located in the open space – seek information that addresses concerns about potential conflict between the management requirements.
- Ecological report has recommended a BNG assessment is carried out. Request a BNG assessment is carried out - where Defra biodiversity metric is used a minimum of 1% net gain has previously been accepted under appeal ruling.
- Ecological assessment has made recommendations for enhancement features. Seek confirmation regarding the minimum number of enhancement features.

Response 2:

- The ecological survey work provides a good understanding of the ecological interest of the site, confirming the ecologists are satisfied the 2021 survey is still valid.

- No evidence of an active badger sett was recorded on site however as badgers are highly active an updated badger survey will need to be carried out as part of the mitigation strategy.
- 43 species of birds were recorded – 9 confirmed and 29 possible/probably breeding. Majority of birds recorded were found within the site boundaries and very few ground nesting birds were recorded. Birds were recorded foraging within the site. The majority of the site boundaries will be retained and those within open space can be enhanced. Any management plan will need to ensure that hedgerows will be managed to create dense/thick hedgerows.
- The reptile population will be retained on site, which is supported. The receptor site will be located in the open space - concerned there will be a conflict between the open space management and reptile requirements. Advise that the LPA must be satisfied that this management will be appropriate.
- Grassland with Meadow vetchling and pyramid orchid recorded within the south of the site, to be retained. Issues can be addressed in the management plan.
- Bats recorded on site but largely within the site boundaries which will be retained. Management of the open space will ensure that there are foraging / commuting opportunities. Lighting will have to be designed to minimise impacts.
- BNG assessment detailed that the proposal will result in a loss of nearly 6% for habitats. As the application was submitted prior to the commencement of mandated BNG, 10% is not required however a minimum of 1% net gain has previously been accepted under appeal.
- Loss will be higher than that detailed within the metric if the condition of the grassland habitats cannot be achieved, especially due to recreational pressure and reptile population management requirements.
- Majority of trees should be included as traditional orchard within the metric. It may not be possible to plant that many trees. Advise TMBC consult their tree officer.
- Proposed habitat plan using UK Hab classification to be provided to understand where habitats will be created and advise if achievable.
- Agree with metric baseline but onsite proposed habitat baseline will need to be updated. Could be done via reserved matters application. Prior to determination need to agree what mechanism will be used to secure the offsite units/credits
- Ecological assessment has made recommendations for enhancement features. Seek confirmation regarding the minimum number of enhancement features. Can be submitted via a condition/as part of the reserved matters.
- Recommend conditions for a detailed mitigation strategy, lighting plan, management plan and ecological enhancement plan.

Response 3:

- Comments above re-stated
- To address conflict between open space management and reptile mitigation, a plan details that a knee-high rail will be installed to deter public access in to this area. Are supportive of this but also recommend that a sign is installed.

- Site wide management plan must demonstrate implementation of southern boundary management for reptiles, by way of tussocky grassland and log piles managed on a 3-year cutting rotation.
- Reptile mitigation area must be created and established prior to the reptile translocation commencing.
- Habitat plan raises concerns about the proposed habitat calculations and therefore it may not be possible to achieve the BNG detailed within the Metric.
- The landscaping plan details that an orchard will be created but the proposed habitat plan shows that area as scrub. If orchard instead of scrub is created the BNG loss for habitat increases.
- Not clear where the 125 trees in the metric will be planted as a lot of the trees within the landscaping plan have been depicted as scrub within the proposed habitat plan. If there is a decline in tree numbers, BNG value will decline.
- Habitat plan raises questions about the location of the proposed and retained linear features as all the hedgerows and line of trees are not depicted within the submitted plan. If hedgerows or lines of trees cannot be retained or created within the site, BNG of over 10% for linear features cannot be achieved.
- Likely that the loss will be higher than that detailed within the metric.
- Due to the anticipated recreational pressure and management requirements for the reptile population, it may not be possible for moderate condition grassland to be achieved. Report detailed this can be addressed within the LEMP. This could be the case but on-going monitoring must inform updates of the management plan to ensure the habitat creation can be implemented.
- Agree with the baseline of the metric but the onsite proposed habitat based line will need to be updated.
- This is something that could be addressed via a legal agreement however it would have to be agreed as part of the S106 (or similar) exactly what the minimum percentage had to be achieved as any off site BNG.

5.8 KCC Economic Development:

Response 1:

Developer contributions sought as follows to offset the demand from the development:

- Primary Education £811,911.00 Towards expansion of primary schools in the East Malling and / or neighbouring Primary Education Planning Groups serving the development.
- Secondary Education £838,078.50 Towards the establishment of a new 6 FE Secondary School as identified at Broadwater Farm OR An alternative new secondary school in either the Malling non-selective and Maidstone & Malling selective, or Tonbridge & Tunbridge Wells non-selective education planning groups.
- Secondary Land £717,895.50 Towards the land acquisition cost for the new 6 FE Broadwater Farm Secondary School, or alternative site land for a new secondary school in either the Malling non-selective and Maidstone & Malling selective, and Tonbridge & Tunbridge Wells nonselective education planning groups.

- Special Education Needs & Disabilities (SEND) £83,974.50 Towards the provision of additional SEND places within new and existing facilities serving the development.
- Community Learning and Skills £5,131.50 Towards additional equipment and resources for adult education centres serving the development, including outreach provision.
- Integrated Children's Services £11,107.50 Towards additional equipment and resources for the Integrated Children's Services including outreach provision to serve the development
- Library, Registrations and Archives Service £9,394.50 Towards additional resources, equipment and book stock (including reconfiguration of space) at local libraries serving the development including Larkfield and West Malling Libraries
- Adult Social Care £27,132.00 Towards Specialist care accommodation, assistive technology systems and equipment to adapt homes, adapting Community facilities, sensory facilities, and Changing Places within the Borough
- Waste £8,170.50 Towards additional capacity at HWRCs serving the development.
- All Homes built as Wheelchair Accessible & Adaptable Dwellings in accordance with Building Regs Part M 4 (2)

Response 2:

- Contributions for primary education removed. All other figures remained the same.

5.9 KCC Public Rights of Way and Access Service:

Response 1:

- Public Footpath MR117 would be directly affected by the development, with the wider network impacted due to increase of use.
- There is incorrect information within the application regarding the legal use of MR117 as cycle access which impacts the sustainable access strategy (Transport Assessment, Travel Plan and Design & Access Statement).
- Request condition for PROW Management scheme/improvements to onsite PROW.
- Request financial contributions for improvements to PROW network in the area.
- Raise a holding objection.

Response 2:

- There is confusion regarding Public Footpath MR117 and the management of and opportunities it presents, in terms of sustainable transport, to the development.
- Require clarification of what is meant by 'upgrade' and definitions used throughout submission.

Response 3:

- Note the changes made and request 'upgrade' is amended in application documents for clarity.
- Unable to agree use of footpath as providing cycle access.
- Will be providing S106 costings shortly.

Response 4:

- Satisfied with documents not being amended but Transport Assessment being read in conjunction with the Transport Addendum.
- Confirm KCC PROW and Access Service have no objection to proposal, subject to comments regarding MR117 cycle use being agreed and a S106 agreement.

Response 5:

Request developer contributions as follows:

- Restricted Byway MR118 137m stretch new surface overlay. Width 3.5m x 137m length x £40persqm surface = £19,180
- Public Footpath MR117 offsite to East of development. 170m Mill St to eastern red line boundary, repair tarmac section as necessary, surface to redline to provide improved surface. 170m x width 2m x £40persqm = £13,600
- Public Footpath MR117 offsite to West of development 210m from red line boundary to Broadwater Road, 200m from Broadwater Road to Lucks Hill, 410m length, improve with crushed stone or similar to counter "boggy" surface. Install new signage to aid wayfinding for new residents in particular to aid off road connectivity towards West Malling. 410m x 2m width x £25persqm = £20,500
- PROW Management Fee of 10 % = £5,328
- TOTAL of £58,608

Seek a "smooth" transition from within site to offsite, so engagement regarding surfacing detail would be essential

Request that the trigger for the contributions is prior to first occupation to ensure that the PROW routes are improved for use by first residents

Response 6:

Amended contribution requested following identification of error:

- Public Footpath MR117 offsite to West of development 220m from red line boundary to Broadwater Road, 200m from Broadwater Road to Lucks Hill, 420m length, improve with crushed stone or similar to counter "boggy" surface. Install new signage to aid wayfinding for new residents in particular to aid off road connectivity towards West Malling. 420m x 2m width x £25persqm = £21,000

5.10 KCC Minerals and Waste:

Response 1:

- Application site overlaps with land-won safeguarded mineral (Hythe Formation (Ragstone), the Sandgate Formation and the Folkestone Formation), safeguarded by Policy CSM 5: Land-won Mineral Safeguarding.

- Planning statement considers this matter with a submitted Mineral Assessment.
- Do not agree with use of 100m buffer zone.
- Agreed that the area of the Folkestone Formation within the application area is too limited to be subject to a viable prior extraction.
- The Sangate Formation has not been exploited in Kent in the past, also being only a small part of the overall mineral bearing land in the application area.
- Borehole results indicate this part of the Hythe Formation is not likely to yield an economic deposit.
- Concluded that all three safeguarded mineral types can have exemption criterion 1 of Policy DM 7 invoked in the determination of the application.
- KCC has no land-won minerals or waste management capacity safeguarding objections or further comments.

Response 2:

- Borehole data and analysis shows there is a high probability of non-viability of these minerals.
- KCC has no land-won minerals or waste management capacity safeguarding objections or further comments

5.11 Environmental Health:

Response 1:

- *Noise* – seek confirmation that the number of train passes during the noise survey are the same now.
- *Air Quality* – No comment.
- *Contaminated land* – Preliminary Geo-Environmental Risk Assessment adequately reviews the history and environmental setting. No significant sources of contamination were identified. Due to site size and potential for overlooking of contamination sources, recommend a contamination watching brief condition.

Response 2:

- Train levels have been confirmed to remain similar to those noted at the time of the original assessment. The assessment satisfactorily demonstrates the proposed development can be developed with noise mitigation.
- An updated report will be required at detailed design stage to provide specifics.

Response 3:

No additional comments

5.12 Conservation Officer:

Response 1:

- Reviewed the application drawings and supporting documents, in particular the LVIA and the Heritage Statement. Generally agree with these assessments from a heritage perspective.

- Do not consider the railway line to be an urban feature. Believe that the assertion this is an urban feature is over played. The feature is relatively normal and low impact with little or no urbanising qualities.
- There is an assertion that there is a 'hard edge' to the mill street edge of the village. Believe the assertion is over played and that the current village edge is neither hard nor particularly urban in form except the short boundary to Darcy Court although even this has soft boundaries that will continue to develop.
- The Oast House retains a strong connection with the open fields, it sits on the boundary of the field. The Oast is an agricultural building and its connection with the open fields improves its setting and gives the building context. The proposal will result in the oast being 'town locked'. Oast houses are generally considered to be non-designated heritage assets. Believe there is a greater level of harm to the setting of the conservation area and there is a greater connection between the Mill Street Conservation Area and the fields to the west than stated in the reports.
- Clare Road is very enclosed by vegetation heavy banks to each side. Entrance will have a significant impact on this sense of enclosure. Road forms the edge of the conservation area and loss of enclosure would harm the character of the lane. Suggest reducing opening size or having a cutting rather than sloped edges.
- Views from western end of the footpath are enhanced by the openness of the fields. There is little evidence of the hard edge, with the oast house roof evident, the soft boundary edges, the scrub lined railway track and the existing natural field boundaries and the tree'd backdrop beyond the houses making the view eastwards from the path typical of a rural village edge.
- Believe the suggested landscaping proposals will only have a lower level of mitigation in screening / greening the proposed development, with the development being abundantly visible in views from the west and are likely to increase the urban nature of the new village edge compared to the existing. Likely only truly assessed once house designs are provided.
- Level of harm to heritage mostly as stated in the heritage statement. The heritage statement underplays the level of harm to both conservation areas. It is agreed that it is less than substantial, suggest it is greater than the low end being low to mid on the scale instead.

Response 2:

- Have reviewed drawing 1746/01 regarding works associated with footpaths and signage.
- These alterations would not be considered to have a harmful impact on the character of the conservation area or the setting of adjacent Listed Buildings.
- Care will need to be taken to ensure the footpath surfaces are not visually prominent or intrusive.

Response 3:

- Have reviewed 'Heritage Note' and 'Landscape Response letter', alongside original comments. The documents affirm the applicant's original assessments and provide some additional interpretation. Neither document provides any strong additional arguments beyond the original submissions
- Happy for original comments to stand and overall assessment of harm remains as stated, less than substantial harm at the low to mid end of the scale.
- Confirm that reference was made to the Mill Street East Malling Conservation Area Appraisal – note that the appraisal is quite old and that there has been development along the western and southern edges since the appraisal was adopted and therefore some of the content of the appraisal needs to be reassessed in this context. The appraisal also misses an assessment of the setting of the Conservaton Area. Only significant view identified being westwards towards the development, which shall be mostly retained owing to the landscaped corridor being provided.
- Setting of all listed buildings were considered in previous response. Impact on Cobbs Hall will not be harmful owing to the separation and intervening landscaping.
- Southern boundary of Clare Park and Blacklands Conservation area is well treed and the edges of Clare Lane are covered in vegetation of a dense nature. Site is also located behind the gardens of the properties on Clare Lane to some degree. Intervisibility between the site and CA will be very low, even in the depths of winter. The setting of Clare Park and Blacklands will therefore not be impacted in a harmful manner.

5.13 Tree & Landscape Officer:

- The Arboricultural Assessment explains that tree groups G1, G2 and G9 and parts of G5 and G8 will be removed to facilitate the development. Seek appropriate replacement planting to offset the loss.
- Replacement planting at entrance of the development site will be important to provide natural screening and balance the vegetation on the opposite side of Clare Lane.
- Planting should be dense enough to screen the proposed new housing from Clare Lane and have a natural appearance (Site Access and Indicative Landscape Strategy appear too formal and do not provide a dense screen).
- Recommend conditions for:
 - Levels
 - Details of services in relation to trees
 - Landscaping
 - Tree protection and method statement
 - Tree felling and pruning specification
 - Landscape maintenance
- Advise that climate change should be a consideration when producing the finalised landscaping details of the site.

- The proposed footpath being predominantly on the southern side of Clare Lane is a significant improvement that should help with retention of the roadside trees on the northern side. Some trees on/adjacent to Highways land on the southern side of the roadway may be lost, however, this is a far better outcome than losing the better quality and more significant trees on the northern side. Where the proposed footpath does cross to the northern side adjacent to T21, T26/27 and Groups G12 and G13, need full details of the proposed new no-dig path, including existing and proposed levels, any drainage and any mitigation measures to offset the impact.
- With regard to the comments by the KCC ecologist about BNG calculations for orchard trees, please confirm where stated numbers come from. Proposed new planting needs to be capable of successful establishment and growth to provide long term benefit.

5.14 Leisure Services:

No objection subject to the applicant entering into a S106 agreement to provide contributions towards off-site open space provision including the provision or enhancement within 3 miles of the development of:

- Existing outdoor sports pitches (Clare Park)
- Parks and gardens (Leybourne Lakes path improvements)
- Natural green spaces (woodland enhancement at Winterfield Lane).

5.15 Waste Services:

Advice and guidance provided on amount and design of waste storage. Bins to be stored within property boundary. Collection areas to be sited no more than 25 metres from the vehicle, with storage areas able to accommodate 240 litre bins, a 55 litre recycling box and a 22 litre food waste bin for each dwelling, with additional space for communal bins. Consideration within the design must be made for refuse vehicle access to bin stores and the site. *Specific details of container sizes and allocations for different property types stated.*

5.16 Housing Services:

- Submission details that 40% affordable housing will be provided.
- Seek to agree a mix within the outline permission to ensure any changes which may be needed at RM stage are required to be fully set out, justified and agreed.

5.17 Southern Water:

- Request details of the anticipated occupation dates and build out rate to plan infrastructure works.
- Proposed development foul sewage flows indicate there would be an increased risk of foul flooding, therefore infrastructure to mitigate this will be provided by Southern Water. Southern Water will liaise with the developer.
- Request a planning condition for the occupation of development to be phased/aligned with the Southern Water delivery of wastewater infrastructure.
- Can provide surface water disposal for the development. Require a formal application from developer.

- SuDS can be adopted by Southern Water. If not adopted, applicant will need to ensure sufficient maintenance regimes are in-place.
- Request a SuDS maintenance condition.
- Highway drainage connection will require agreement of the highway authority.
- Request a foul and surface water drainage condition be attached.

5.18 Natural England:

Response 1:

- No objection - Based on the plans submitted, consider the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.
- *Standard guidance given in relation to National Landscape and SSSI Risk Zones.*

Response 2:

- Advice provided in previous response still applies/proposed amendments unlikely to have significantly different impacts than original proposal.

5.19 Kent Wildlife Trust:

- No comments received.

5.20 Kent Police:

- Applicants/agents should consult Designing out Crime Officers (DOCO's) to address Crime Prevention Through Environmental Design (CPTED) and incorporate Secured By Design (SBD).
- Recommend the applicant follows SBD guidance to address designing out crime to show a clear audit trail for Designing Out Crime, Crime Prevention and Community Safety and to meet Local Authority statutory duties.
- Recommendations for the layout and design provided.
- Site security is required for construction phase.

5.21 NHS CCG:

- Proposal will generate approximately 360 new patient registrations for GPs and additional demand for healthcare.
- Request a total of £129,600 towards refurbishment, reconfiguration and/or extension of existing general practice and other healthcare premises or new premises for general practice or healthcare services provided in the community.

5.22 Network Rail:

Response 1:

Due to the close proximity of the proposed works to the operational railway, request that, where applicable, the developer follows the Asset Protection informatives.

Response 2:

- No additional comments to make.
- Refer to previous response

- Request the applicant engages Network Rail's Asset Protection and Optimisation (ASPRO) team prior to works commencing.

5.23 Sport England:

- Does not fall within statutory remit, or non-statutory remit
- Standing advice provided.

5.24 Active Travel England:

- Refer to standing advice.

5.25 National Highways:

Response 1:

- Recommend planning permission not be granted until 27 February 2024 because proposals have the potential to impact on the strategic road network (SRN).
- Require further information so that an informed decision can be made in relation to the impacts of the development on the strategic road network.
- Request information in relation to trip rates, trip generation, vision for the development, trip distribution/assignment analysis and a travel plan linking to the vision, existing infrastructure and targets.

Response 2:

- Further information presents a trip distribution and assignment methodology identifying the number of development trips which are expected to use SRN junctions M20 J4 and J5. Satisfied with the methodology, and conclude that no junction assessment analysis is required.
- Proposals would not have an unacceptable impact on the safety, reliability, and/or operational efficiency of the SRN in the vicinity of the M20 subject to conditions for a Travel Plan and Construction Traffic Management Plan.

Response 3:

- Amendments do not alter the impact of the proposed development on the SRN.
- Refer to previous response.

5.26 Kent Fire & Rescue:

Response 1:

- Emergency access road would represent the optimum arrangement. Kent Design Guide sets out that where dwellings range between 50 and 300, ideally the site access road has two points of access or is a loop with a short connection to a single point of access and a secondary emergency access link.
- As the Kent Design Guide is guidance, have no legislation to enforce this. Therefore, would not raise an objection to the development.
- Failure to follow this recommendation is contrary to Fire Service Advice.

Response 2:

- Addendum to Design & Access Statement shows there is an emergency access road, in accordance with the Kent Design Guide.

- Fire Service emergency access to the site appears satisfactory.
- As this is an outline application, cannot comment on access to the individual residential properties. To be assessed at a later stage.

5.27 Private Reps: 18 letters despatched originally (38 during re-consultation to notify those who commented originally), site notices and press notice (consultation undertaken twice due to receipt of further information and amended site address). Responses received: 4X(raising no objection)/135R(raising objection)/0S(in support), summarised as follows:

- Question the need for the housing development/what benefits does it bring to the area?
- Concerned about the siting of the development and the impact on the area around the school entrance
- Issues with additional traffic affecting the health and safety of students. Existing roads are hazardous, traffic calming will only marginally reduce the risks.
- Existing roads inadequate to serve construction and this development – narrow, poor visibility, lack of capacity. As existing, roads are busy/congested, especially at school/peak times. There have been several accidents recently.
- Clare Lane a busy road as existing, with speeding an issue, no path, blind narrow bends (junction with Winterfield Lane and corner with Mill Street), is narrow, with road dangerous for pedestrians and cyclists – contrary to policy SQ8 and paragraph 111 of NPPF. Mill street busy/congested, narrow, bendy, with parked cars and a dangerous bend. Winterfield lane, Broadwater Road, Stickens Lane, High Street, New Road/High Street/Chapel Street junction, Swan Street also suffer similar traffic issues, some without paths. A20 busy.
- Development will increase traffic on Clare Lane, Winterfield Lane and Mill Street/East Malling/generally, will be worse with cumulative effect of other developments.
- Developer has not considered other development locally and their traffic
- Proposed access is dangerous/is where cars travel fastest/has limited visibility/will result in more accidents.
- Access likely to be different following detailed surveys – 40 Acres Development. Levels have not been considered.
- Increased traffic results in concerns about highway safety and damage to roads.
- Unrealistic expected vehicle movements, unlikely expected number of cars from the development and inaccurate existing highways speeds.
- How will additional traffic be managed in the interests of highways safety?
- Street lighting and traffic calming will negatively affect existing residents, encourages speeding, result in light pollution, harms environment, reduces privacy, not needed and urbanise the rural lane, contrary to Policy DC6.
- Inaccuracies within Travel Plan/planning statement
- Traffic calming/lighting considered ineffective. Suggest speed cameras.
- Traffic calming welcomed. Street lighting will help drivers see pedestrians.
- Traffic calming shows access is not suitable.

- Suggest footpath to the north side of Clare Lane and chicanes to increase safety.
- Request expected traffic numbers towards West Malling.
- Insufficient access as no secondary access - contrary to Kent Design Guide.
- Emergency access road does not meet government standards/Building Control requirements, is an unadopted road, is too narrow, there is insufficient space to widen the path, will result in trespassing and vehicle damage and will urbanise the area. Insufficient to allow vehicular and pedestrian access at the same time, changes would be unacceptable.
- Existing bus services are infrequent/will not be used.
- Railway stations too far from the site/no roadside footpath towards West Malling, therefore does not enable people to walk to them.
- West Malling Station used more by residents as the trains are more regular and have more destinations.
- West Malling a town with more facilities than East Malling – people more likely to walk and travel there.
- Public transport being ineffective means development is contrary to policy CP25 and Kent Design Guide.
- Development to be car dependent.
- Existing trains too busy/oversubscribed.
- Air pollution already an issues. Noise, light and air pollution from additional traffic, harming health.
- Seek for construction vehicles to access the site via Winterfield Lane – not along Mill Street.
- Increased animal fatalities due to increased traffic.
- Exposed gas pipe on Listed Building on Clare Lane maybe hit.
- Increase parking in West Malling – should provide contributions to pay for this.
- Section of land where footpath is proposed along Clare Lane has been maintained by residents historically.
- Proposed path along Clare Lane – unnecessary path/stealing land unnecessarily, resulting in boundary disputes, issues with service workers, shortens driveways, results in on-street parking, reduces privacy, increases noise/interruption, harms wildlife, increase pollution, impacts character of area and reduces property value.
- Suggest upgrade permissive path behind trees or provide a path along north side of Clare Lane.
- Proposed pedestrian crossing point unsafe.
- Request path is retained open during/after works.
- MR117 unsuitable for cycling – becomes dangerous when crossing Broadwater Road. Footpath unusable after rain and unlit, so will have to walk in the road. Contrary to policy CP2.
- People unlikely to follow rule of dismounting bike when using MR117.
- Unsustainable pedestrian access strategy, contrary to paragraph 93e of NPPF.
- Access road and development will negatively impact MR117, loss of views of East Malling and countryside.

- Upgrades to MR117 and surrounding development would urbanise this area, are not needed, contrary to paragraph 100 of NPPF.
- Path upgrades on element towards East Malling, are needed towards West Malling instead, which is not suitable for people who are not hardened walkers and is unlit/unsafe at night.
- Path is historical, possibly a roman road?
- Loss of historical black soil surface of pathway
- Believe path was historically used as bridleway by horse riders – request that the development upgrades the pathway to a bridleway.
- Access strategy unsuitable for those with mobility scooters.
- Insufficient infrastructure/amenities as existing/to cope with proposed demand (GPs, hospitals, dentists, schools, transport, water, sewage, emergency services, postal, clinics, care homes, shops). Contributions will not resolve issues, just sidestepping issues, should deliver on-site.
- No contribution for bus services – this should be sought.
- Consider these are not the correct houses in this location. Should focus on brownfield/high-rise town/centre development.
- Who will maintain the orchards and open spaces?
- Overlooking/loss of privacy.
- Loss of a view
- Noise pollution/interruption during construction.
- Increased crime.
- Damage/loss of village community.
- Roman Road possibly crosses the site.
- Affordable homes are not properly affordable, despite great need for affordable properties in the Borough.
- Request affordable homes are delivered
- Reduction in property value.
- Homes not for local people but those coming down from London. Demand not from the local area.
- Local mobile home developments are numerous and not counted in housing figures/not controlled by TMBC
- Loss of open and green space, harming health/wellbeing.
- Harmful loss of grade 2 agricultural land, contrary to paragraph 7 of NPPF. What is the effect upon the remaining land – will this still be economic to farm?
- Light pollution.
- Noise pollution.
- Environmental pollution.
- Damage to water table.
- Proposal speculative/for profit/greedy/seeking land uplift to sell the site.
- Detail will only be provided later-on, when the chance to influence the future of the site is lost.
- Difficult to provide comments - much information, but limited detail.
- Question how simple applications require more detail than this application.

- Sites and area floods as existing. Increased drainage/flood risk, on and offsite. Concerned about drainage basin ability to store water. SuDS basin not a benefit – acknowledge the site issues with flooding.
- Concern about sink holes
- Groundwater close to the surface – impact on water quality.
- Reduced quality of life.
- As of yet to see the impact of 40 Acres – how can area cope with further housing?
- Amazing that that 150 homes maybe acceptable when it difficult to get permission for Darcy Court/has many restrictions placed on it. What has changed?
- Previous call for sites as part of local plan suggested site was not sustainable.
- Premature development ahead of the Local Plan
- Damage to archaeology.
- Existing site important for wildlife, plants, fungi, etc.
- Reports underestimate existing biodiversity onsite
- Harm to/loss of biodiversity – plants, animals, habitat, environmental harms
- Access would result in a harmful loss of trees
- How would the biodiversity net gain be achieved? Better biodiversity levels as existing.
- Should carry out small mammal, insect and invertebrate surveys.
- Cannot see how biodiversity net gain can be achieved/offsetting the harm away from the site will not be appropriate.
- Site was previously proposed as green belt, and likely in the upcoming plan. Green Belt extension highly supported.
- Site is outside the built confines – contrary to CP11.
- Development not required in the local plan
- Footpath would urbanise the village.
- Urbanisation/too dense/not in-keeping/damage to character of the area/loss of historic East Malling.
- Design not appropriate – suburban.
- Overdevelopment/too dense.
- Harm to Conservation Areas, harm to Mill Street CA contrary to paragraph 197c of NPPF.
- Harm to Listed Building settings due to visibility from the site (Weir Mil, Cobbs Hall)/Conservation Areas.
- Harm to non-designated heritage assets due to visibility from the site – Darcy Court Oasts.
- Harmful to character and history, contrary to policies CP24, SQ1 and paragraphs 124, 130 and 174 of NPPF.
- Urban sprawl/overdevelopment as a result of a many developments in the vicinity of East Malling – loss of character, agricultural/rural land and identity.
- Too much development in this part of the Borough, other areas having far less.

- Loss of green gap between East and West Malling, merging with Maidstone as a result of previous developments – contrary to CP5.
- Development in countryside, contrary to Para 3 of CP1 and policies CP6 and CP14, alongside paragraph 174b of the NPPF.
- Existing site has important landscape views. These would be lost as a result of the development.
- Back garden development, not integrated into existing built environment.
- Proposed landscaping proposals not accurate. Request more screening on eastern boundary. Screening of railway not needed.
- Proposed benefits will not benefit the local community.
- Proposed funding proposals not detailed within the submission.
- Insufficient community engagement.
- Consultation invalid – closing date not published on the website.
- Contrary to NPPF economic, social and environmental objectives
- Proposal contrary to NPPF paragraphs 7, 93, 100, 111,112, 124, 130, 174, and 197, alongside policies CP1, CP2, CP5, CP6, CP11, CP14, CP24, CP25, SQ1, SQ8 and DC6. Out of date policies still considered to carry weight as long as NPPF conforming. Appeal decisions from TMBC and Sevenoaks of relevance. Conflicts with policies outweigh benefits of the proposal.

6. Determining Issues:

Policy and Other Considerations

6.1 Prior to the consideration of the proposal, it should be noted that the Government has concluded a consultation into revisions to the NPPF. These revisions to the NPPF therefore do not carry any weight at this stage and the following assessment is based on the contents of the current December 2023 NPPF as well as policies and guidance listed below:

- [National Planning Policy Framework \(NPPF\) 2023 \(December\)](#).
- [National Planning Practice Guidance \(NPPG\)](#)
- [Tonbridge and Malling Borough Core Strategy 2007 \(TMBCS\)](#):
 - Policy CP1 Sustainable Development
 - Policy CP2 Sustainable Transport
 - Policy CP5 Strategic Gap
 - Policy CP6 Separate Identity of Settlements
 - Policy CP9 Agricultural Land
 - Policy CP10 Flood Protection
 - Policy CP13 Other Rural Settlements
 - Policy CP14 Development in the Countryside
 - Policy CP17 Affordable Housing
 - Policy CP24 Achieving a High Quality Environment

- Policy CP25 Mitigation of Development Impacts

The Core Strategy is now time expired, however not all policies contained within it are out of date. The [Core Strategy Policies Document](#) sets out the weight of each policy based on relative conformity with the NPPF.

- [Managing Development and the Environment Development Plan Document 2010 \(MDE DPD\)](#):
 - Policy CC1 Mitigation - Sustainable Design
 - Policy CC2 Mitigation - Waste Minimisation
 - Policy CC3 Adaptation - Sustainable Drainage
 - Policy CC4 Adaptation - Winter Water Storage
 - Policy NE1 Local Sites of Wildlife, Geological and Geomorphological Interest
 - Policy NE2 Habitat Networks
 - Policy NE3 Impact of Development on Biodiversity
 - Policy NE4 Trees, Hedgerows and Woodland
 - Policy SQ1 Landscape and Townscape Protection and Enhancement
 - Policy SQ3 Historic Parks and Gardens
 - Policy SQ4 Air Quality
 - Policy SQ5 Water Supply and Quality
 - Policy SQ6 Noise
 - Policy SQ7 Health and Well-being
 - Policy SQ8 Road Safety
 - Policy SQ9 Crime and Disorder
 - Policy DC6 Rural Lanes
 - Policy OS3 Open Space Standards
 - Policy OS4 Provision of Open Space
 - Policy OS5 Green Infrastructure Network
 - Policy OS6 Open Space Accessibility and Safety
- [Kent Minerals and Waste Local Plan \(2020\) \(KMWLP\)](#):
 - Policy CSM5 Land-won Mineral Safeguarding
 - Policy DM7 Safeguarding Mineral Resources
- [Affordable Housing Supplementary Planning Document \(SPD\)](#) and [Affordable Housing Protocol](#)
- [Kent Design SPD \(Kent Design Guide\)](#)
- [Kent Vehicle Parking Standards \(IGN3\) and \(SPG4\)](#)
- [Mill Street, East Malling Conservation Area Appraisal \(CAA\)](#)
- East Malling Village Design Statement

Principle of Development

- 6.2 The Council cannot currently demonstrate an up-to-date 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 sustainable development as set out in paragraph 11 of the NPPF. 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 undertaking this exercise, the adopted development plan must remain the starting point for the determination of any planning application (as statutorily required by s.38 (6) of the [Planning and Compulsory Purchase Act 2004](#)) and which is reiterated at paragraph 12 of the NPPF. The consequence of this must be an exercise to establish conformity between the development plan and the policies contained within the Framework as a whole and thus ultimately the acceptability of the scheme for determination.
- 6.4 In terms of the principles of the development in relation to the adopted development plan, policies CP5, CP6, CP13 and CP14 are the most important to the determination of this application, due to its specific locational characteristics outside, but close to the rural settlement of East Malling. However, as the development relates to the provision of housing, these policies are considered to hold significantly diminished weight and to be out of date, pursuant to footnote 8 of the NPPF because the LPA cannot demonstrate a 5-year supply of housing land.
- 6.5 Footnote 7 of paragraph 11 of the NPPF defines ‘the policies’ as mentioned above at paragraph 11 of the NPPF to include those relating to a number of protections and constraints. Included in this list are designated heritage assets and areas at risk of flooding. It is therefore necessary to consider the development proposals against these restrictive policies in order to establish whether the presumption re-emerges to be applied in this case. These are considered in turn below.

Heritage assets

6.6 Paragraph 200 of the NPPF states that:

“In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.”

6.7 Paragraph 201 details that:

“Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal.”

6.8 In terms of considering potential impacts arising from development proposals, paragraphs 205, 206 and 208 explain:

“205. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.”

“206. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.”

“208. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”

6.9 In relation to non-designated heritage assets, paragraph 209 sets out that:

“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced

judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”

6.10 Annexe 2 of the NPPF defines the setting of a heritage asset as being:

“The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.”

6.11 It must also be remembered that the LPA has statutory duties placed on it by the [Planning \(Listed Buildings and Conservation Areas\) Act 1990](#). Section 66(1) of the 1990 Act requires the decision maker to have special regard to the desirability of preserving Listed Buildings or their setting or any features of special architectural or historic interest that they possess. Section 72(1) of the 1990 Act similarly requires the decision maker to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

6.12 Additionally, policy SQ3 of the MDE DPD explains that in relation to historic parks and gardens:

“Development will not be permitted where it would harm the overall character, integrity or setting of the Historic Parks and Gardens identified on the Proposals Map and listed in Annex SQ3, or which might prejudice their future restoration.”

6.13 The proposed development site is within the setting of heritage assets by way of multiple Listed Buildings, Mill Street East Malling CA, Clare Park and Blacklands CA and non-designated heritage assets (including Darcy Court Oast and the Historic Park and Garden of Clare House). A small slither of the roadside verge in the north-east corner of the site falls within the Clare Park and Blacklands Conservation Area.

6.14 The land to the north (including Clare Lane) lies within the Clare Park and Blacklands Conservation Area (CA), which extends northwards to Winterfield Lane, and south eastwards to Blacklands. The dense woodland belt on the northern side of Clare Lane means that there is very limited intervisibility between the site and the interior of Clare Park, however views of the northern-most part of the site are obtainable from the CA along Clare Lane.

6.15 The Mill Street CA lies to the east of the site, incorporating the houses in Darcy Court, and extending south eastwards along Mill Lane. There is intervisibility between the CA and the site from PROW MR117 and sections of Darcy Court.

6.16 There are several Listed Buildings in the vicinity of the site. Westbrook House on the corner of Mill Street and Darcy Court, 148-152 Mill Street, the Office Building at Invicta Works (155 Mill Street) and Elizabeth Smiths Almshouses Mill Street (all Grade II Listed) are all located to the east of the site. There are some intervening views of the site from Westbrook House, along the public footpath westwards. 148-

152 Mill Street lacks clear intervisibility, whilst the Office Building at Invicta Works has limited intervisibility. Elizabeth Smiths Almshouses has no intervisibility.

- 6.17 To the north of the site on Clare Lane, are the Grade II Listed Old School Cottages, and Lyme Cottage, also Grade II Listed. There is no intervisibility between the site and these buildings, due rear gardens and intervening vegetation. The Grade II Listed Blacklands Barn is sited on Blacklands, with no intervisibility owing to intervening buildings. The Grade I Listed Clare House and Wall And Arch To Stable Court Clare House (Grade II Listed) lie to the north of the site, however, due to the dense intervening vegetation, there is no intervisibility. The Grade II Listed house at 106 Clare Lane lies a short distance northwest of the site, with views towards the south of the site visible from the rear of this property. To the west of the site, along Broadwater Road, is the Grade II Listed Cobb's Hall, which has intervisibility with the site from its rear façade.
- 6.18 The Historic Park and Garden of Clare House (a non-designated heritage asset covered by policy SQ3), lies to the north of the site, and is described in the MDE DPD, as 'a substantial landscaped parkland from the 18th Century, containing fine specimen trees, a lake and a stable block. The parkland is screened by boundary trees which remains mostly intact.' Within Darcy Court there is a converted oast house, which given its strong connection to the famous Kentish hop industry, its iconic and easily recognised architectural form and its connection to social history, is considered to be a non-designated heritage asset. There is intervisibility between the oast and application site, with some ground floor views reduced by intervening modern development.
- 6.19 In relation to the Grade II Listed 165 Mill Street/Westbrook House, the heritage significance is primarily due to its own built form. The setting of the building has already been impacted through the introduction of modern residential buildings, which have subsequently severed the house from the associated farmland which it was previously linked with, however some former agricultural links remain by way of existing farm buildings and several intervening views between the Listed Building and agricultural land. The removal of agricultural land historically associated with the Listed Building will reduce the legibility of the building as a former farmhouse to a greater degree than already present. The proposed development will introduce modern built form into the periphery of views of the Listed Building from the public footpath, albeit there shall be some separation. Additionally, the element of the site nearest the Listed Building is indicated as being open space and landscaped, which shall help contribute towards preserving the rural setting of this Listed Building. The development would however not be unacceptably harmful to this Listed Building.
- 6.20 The Grade II Listed house at 106 Clare Lane is primarily important in heritage terms due to its built form. Views of the development site shall be obtainable from the rear of this property, however owing to the retention of much of the structural landscaping within the application site, the separation with the development and the lack of a

historic functional relationship with the site, the development is not considered harmful to the setting of 106 Clare Lane.

- 6.21 Cobbs Hall was historically under the same ownership as a small part of the central western area of the development site. The indicative site plans show that it is intended for an area of reinforced hedgerow and tree planting to be planted along the western boundary, which will filter views from the Listed Building to the development and will retain part of the land historically under the same ownership as undeveloped, but there will be a slight erosion of the building's isolated nature. A remaining area of agricultural land located between the site and Listed Building will largely preserve the isolated agricultural setting of the building, but it is acknowledged that views of the development site shall be present, bringing the built edge of East Malling closer to Cobbs Hall. The impact of the development is however not considered harmful to Cobbs Hall.
- 6.22 In relation to 155 Mill Street/Office Building at Invicta Works, the site is not considered to contribute to the heritage significance of the asset through setting as it was historically in the same ownership, but under a separate tenancy. Intervening views between the site and Listed Building are very limited due to modern development at Darcy Court. As such, no impact is anticipated on the heritage significance of 155 Mill Street.
- 6.23 Listed Buildings by way of Lyme Cottage, Old School Cottages, 148-152 Mill Street, Blacklands Barn, Elizabeth Smiths Almshouses, Clare House and Wall and Arch To Stable Court Clare House lack clear intervisibility with the site, being separated by large domestic curtilages or intervening residential development and did not have a functional connection with the land. Therefore, these buildings are not potentially sensitive to residential development within the site.
- 6.24 In relation to the Mill Street East Malling CA, the special character and heritage significance is primarily as a result of the built form within the CA. The setting of the CA has already changed as a result of modern development within and within the setting of the CA. Modern development within Darcy Court has reduced the relationship with the agricultural land to the west. Within Darcy Court and the Mill Street East Malling CA, there is Darcy Court Oast, a non-designated heritage asset, converted to residential use. Despite the surrounding development, this building has a connection with the open agricultural fields, which give the building a clear setting and context. There are intervening views between the site and historic buildings within the CA, whilst being clearly visible on footpath MR117 when approaching and leaving the CA (as indicated in the East Malling CA Appraisal). When leaving the village, this gives observers the feeling of walking past an agricultural building and entering an agricultural landscape, whilst looking back at the village the appearance is of a rural landscape with a traditional rural village in the background. The site therefore contributes towards the heritage significance of the CA and Darcy Court Oast through setting and historic illustrative value. As such, the development would impact this significance, with the development resulting in the Oast and CA having

development within its setting, therefore reducing the connection with the rural landscape. However, it has to be noted that the plans indicate that the area closest to the public right of way and Oast will be retained as open space rather than being subject to built form, limiting the urbanisation of this element of the site. The areas of built form proposed closest to the CA are considered to likely be in-keeping with the CA as the Design and Access statement indicates that the appearance and layout of the development shall be of a rural character, reflecting the appearance of houses at the edge of East Malling village. The development would therefore appear as a natural extension of East Malling, similar to other existing developments to the west of East Malling. As such, the indicative design of the development by way of the siting of open space, landscaping, building designs and layout therefore minimises and reduces the level of harm to the setting of the Mill Street East Malling CA and its non-designated heritage assets.

- 6.25 In relation to the Clare House and Blacklands CA, its significance is primarily as a result of its historic buildings and open parkland space. The heritage importance of the non-designated Historic Park and Garden of Clare House is the open parkland. There has been previous development within the CA, the park/garden and its setting, including the residential development of Clare Wood Drive, schools and residential development to the north/north-west. The application site appears to have never been held in common with any properties in the CA. There is a strong tree-lined boundary along Clare Lane, which helps reduce intervisibility with the parkland and also contributes towards the setting and character of the CA, alongside the character of the edge of the parkland. The interior of the development would not be visually prominent from the CA and park/garden. As such, the expected impact from the development itself is minimal, apart from the formation of the access.
- 6.26 In relation to the access, the proposed development involves the removal of some trees to the south of Clare Lane to facilitate the entrance to the development, alongside the formation of a pathway along Clare Lane, with a small section of the works falling within the CA. There will be an impact upon the character of the street scene as a result of forming this new access which will reduce enclosure and impact the character of the lane. The plans submitted however clearly illustrate that the vehicular access plans simply propose what is essential in order to facilitate safe access to the development site. The proposed access will be surrounded by an extensive amount of planting, aiming to both screen the development from the street scene and CA, whilst replicating the existing heavily vegetated and banked appearance of Clare Lane. There will be a loss of vegetation and openness formed initially, however once the vegetation is established, the access is expected to appear similar to the natural appearance of the access to Clare Wood Drive. It is acknowledged that a pathway will be formed along Clare Lane, which will add an element of urbanisation to this rural lane. However, as this is proposed predominately along the south-side, which is closest to existing built form, a path would not appear out-of-place. The proposed footpath being predominantly on the southern side of Clare Lane is a sensible proposal as it will help with the retention of the roadside trees to the northern side which are important to the appearance of the

CA. It is acknowledged that some trees on/adjacent to Highways land on the southern side of the roadway may be lost, however these trees are of a lower quality, contributing less to the appearance of the CA. The path in-front of the school and closest to the access of the site are short in length and minor interventions in the CA. It has been confirmed with KCC Highways that the street lighting can be of a conservation design, suitable for use in a CA. The detailed design of the path and streetlights can be ensured by planning condition to ensure a satisfactory appearance. As such, it is considered that the development would not have an unacceptable impact upon the Clare House historic park or the Clare House and Blacklands CA.

- 6.27 The submitted heritage assessment with the application reaches the conclusion that the proposed development will result in a less than substantial amount of harm at the lowest end of the spectrum to changes to the setting of Westbrook House, Cobb's Hall, Mill Street East Malling CA and Clare Park and Blacklands CA.
- 6.28 The application has been reviewed by the Conservation Officer, who advises that the impact of the landscaping proposals on mitigating the visual impacts can only be truly be assessed once the detailed plans are provided. The parameters for the reserved matters application shall be set via condition to ensure an acceptable scheme comes forward in relation to the impact of the development on the rural landscape setting and the surrounding heritage assets. Additionally, the Conservation Officer has raised no objection to the development, and advises that the level of harm in relation to paragraph 208 of the NPPF is higher than that considered in the reports, but will be at the low to mid end of the scale of less than substantial harm.
- 6.29 Overall, given the above, the development would have an impact upon designated and non-designated heritage assets. The harm would however not significantly impact the ability of observers to recognise and appreciate the special interest of the surrounding Listed Buildings, Conservation Areas, heritage buildings and historic parkland. In relation to paragraph 208 of the NPPF, the impact would amount to less than substantial harm at the low to mid end of the scale.
- 6.30 In accordance with the NPPF, this harm should be weighed against the public benefits of the proposal. The proposal involves delivering 150 homes, with full policy-compliant affordable home provision, contributions to local services and a series of benefits, detailed later in the report and set-out within the Planning and Affordable Housing Statement Addendum. On balance, it is considered that the less than substantial harms are clearly outweighed by the benefits of the development.
- 6.31 On this basis it is considered that the development would not have an adverse impact on heritage assets and would therefore be in accordance with Sections 66(1) and 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990, Policy SQ3 and the NPPF (2023).

Flooding and drainage

6.32 In the Local Plan, Policy CP10 relates to flood risk and states that:

“1. Within the floodplain development should first seek to make use of areas at no or low risk to flooding before areas at higher risk, where this is possible and compatible with other policies aimed at achieving a sustainable pattern of development.

2. Development which is acceptable (in terms of PPS25) or otherwise exceptionally justified within areas at risk of flooding must:

(a) be subject to a flood risk assessment; and

(b) include an appropriately safe means of escape above flood levels anticipated during the lifetime of the development; and

(c) be designed and controlled to mitigate the effects of flooding on the site and the potential impact of the development on flooding elsewhere in the floodplain.”

6.33 Within the NPPF, paragraph 165 explains that:

“Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.”

6.34 Paragraphs 167 and 168 of the NPPF explain the sequential test in relation to flood risk:

“167. All plans should apply a sequential, risk-based approach to the location of development – taking into account all sources of flood risk and the current and future impacts of climate change – so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by:

a) applying the sequential test and then, if necessary, the exception test as set out below;

b) safeguarding land from development that is required, or likely to be required, for current or future flood management;

c) using opportunities provided by new development and improvements in green and other infrastructure to reduce the causes and impacts of flooding, (making as much use as possible of natural flood management techniques as part of an integrated approach to flood risk management); and

d) where climate change is expected to increase flood risk so that some existing development may not be sustainable in the long-term, seeking opportunities to relocate development, including housing, to more sustainable locations.”

“168. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.”

6.35 Paragraphs 169, 170 and 171 explain the exception test in relation to flood risk:

“169. If it is not possible for development to be located in areas with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in Annex 3.”

“170. The application of the exception test should be informed by a strategic or site-specific flood risk assessment, depending on whether it is being applied during plan production or at the application stage. To pass the exception test it should be demonstrated that:

a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and

b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.”

“171. Both elements of the exception test should be satisfied for development to be allocated or permitted.”

6.36 Paragraph 173 details the process for determining planning applications:

“When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;

b) the development is appropriately flood resistant and resilient;

c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;

d) any residual risk can be safely managed; and

e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.”

6.37 In relation to drainage, Policy CC3 of the MDE DPD sets out that development will not be permitted if it has an unacceptable impact on the water environment and if development proposals do not incorporate SuDS appropriate to the local context. It advises that SuDS will need to have appropriate maintenance and management agreements in place. It advises where it is not practicable to use SuDS, it will need to be demonstrated that an appropriate alternative means of surface water drainage is incorporated.

6.38 Paragraph 175 of the NPPF also covers surface water drainage and explains that:

“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.”

6.39 The application is supported by a flood risk assessment and outline drainage strategy (FRA). The FRA has assessed the development in relation to flood risk, sets-out an outline drainage strategy for the site and has considered the potential impact of the development on surface water runoff rates, given the increase in impermeable areas post-development.

6.40 The site has a small area of low extent of flood risk from surface water according the Environment Agency’s maps of surface water flooding. This area covers part of the area mainly near public right of way MR117 and the area proposed for the attenuation basin. The NPPF therefore requires that developments at risk of flooding undertake the sequential and exception tests (paragraphs 167-171). However, the PPG at paragraph 026 of the guidance for flood risk and coastal change advises:

“The Sequential Test should be applied to ‘Major’ and ‘Non-major development’ proposed in areas at risk of flooding, but it will not be required where:

- The site has been allocated for development and subject to the test at the plan making stage (provided the proposed development is consistent with the use for which the site was allocated and provided there have been no significant changes to the known level of flood risk to the site, now or in the future which would have affected the outcome of the test).*

- *The site is in an area at low risk from all sources of flooding, unless the Strategic Flood Risk Assessment, or other information, indicates there may be a risk of flooding in the future.*
- *The application is for a development type that is exempt from the test, as specified in footnote 56 of the National Planning Policy Framework.”*

- 6.41 The site is in an area at a low risk of flooding from all sources of flooding, specifically it is within flood zone 1 (the lowest form of fluvial and tidal flooding), has been found to be at a negligible/low risk from groundwater flooding, only contains a small area of low extent of flood risk from surface water/pluvial flooding and is at negligible risk from sewer flooding and infrastructure failure. Therefore, in accordance with the second bullet point in paragraph 026 from the PPG above, both the sequential and follow-on exception test are not required in this instance as the site is at a low risk of flooding from all sources. The development is therefore ideally located, in a location which has an overall low risk from flooding. The rest of this assessment therefore focuses on the application in the context of paragraphs 173 and 175 of the NPPF, alongside policies CP10 and CC3.
- 6.42 The drainage rates have been calculated, and it has been demonstrated that surface water can be managed, such that flood risk to and from the site following development will not increase. The indicative details illustrate that the majority of the site shall have the surface water drained via permeable pavements and a below ground drainage network to an attenuation basin. The basin may provide some infiltration but it is predominantly to attenuate flows prior to discharge to a sewer, with a restricted discharge rate (3.26l/s [QBAR]). The attenuation basin is proposed to include cellular storage below to increase capacity but to ensure that the water depth is kept to below 1.2m. A secondary discharge is proposed to the highway drain within Clare Lane as the site access falls away (north) from the main site area, with a minimum restricted 1.0l/s discharge rate. There are however other options for direct infiltration and drainage to a surface water sewer, which can be investigated further at detailed design. The final drainage design for the site can be secured via planning condition given the current application is for outline permission, with evidence to confirm that the drainage has been installed according to the approved details also required by a drainage verification condition.
- 6.43 It is acknowledged that the attenuation basin is proposed close to/in the area of surface water flood risk, however this is considered appropriate given this is one of the lowest parts of the site, this design means housing shall not be located in this area of low surface water flood risk and the attenuation basin shall also enable this flood risk to be managed.
- 6.44 A SuDS treatment train, including permeable paving, highway gullies, and sediment forebay on the detention basin inlet will improve water quality. A gravel filled mid-section through the basin would allow a nominal amount of infiltration.

- 6.45 A maintenance and management plan will ensure the effectiveness of the drainage strategy during the operation phase, which shall be secured by planning condition.
- 6.46 KCC LLFA have raised no objections to the development, subject to conditions relating to detailed design and verification. Similarly, Southern Water have also raised no objection subject to planning conditions being attached, which shall be incorporated into the LLFA conditions. Both consultees have offered advice, which are recommended to be included as planning informatives.
- 6.47 As such, given the lack of objections from drainage/flood risk consultees and the submitted details and assessment, it is considered that the development is appropriately located in relation to flood risk, it shall not be at an unacceptable level of flood risk, being appropriately flood resistant and resilient, and would not increase flood risk elsewhere, whilst incorporating a sustainable drainage system appropriate for a major development and safely managing residual flood risk. I am therefore satisfied that, with the suggested conditions, the development would be acceptable in relation to flood risk and surface water drainage. As such, it would accord with the requirements of policies CP10, CC3 and paragraphs 165-175 of the NPPF.
- 6.48 In conclusion, it is considered that the NPPF tests regarding harm are therefore met, with the development not conflicting with NPPF policies in relation to areas and assets of importance (paragraph 11 (d) (i)). As such the presumption in favour of sustainable development set out at paragraph 11 (d) (ii) re-emerges and needs to be applied. The remainder of the assessment must therefore be undertaken within the context of the tilted planning balance, with planning permission being 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. It is on this basis that the remainder of the analysis, and the conclusions drawn, follow.

Locational characteristics and associated impacts

- 6.49 Paragraph 84 of the NPPF states that “planning policies and decisions should avoid the development of isolated homes in the countryside”. Whilst the site is located within the designated countryside, it is located immediately adjacent to the defined settlement of East Malling Village and cannot be reasonably said to be isolated in any way. The development would therefore meet the requirements of paragraph 84 of the NPPF.
- 6.50 The NPPF states at paragraph 7 that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 of the NPPF states that the planning system has three overarching objectives to achieving sustainable development, these being an economic objective, such as ensuring adequate land is available to support growth and enable the provision of infrastructure; a social objective, such as ensuring a sufficient number and range of homes can be provided to meet the needs of present and future generations as well as accessible services and open spaces; and an environmental objective, ensuring that effective use is made of land, helping to improve biodiversity and protecting and

enhancing the natural, built and historic environment. Sustainable development is also re-iterated in policy CP1 of the TMBCS.

6.51 It is considered that the location of the site and the type of development proposed would be considered sustainable development under paragraph 8 of the NPPF and this is set out in greater detail throughout this report as necessary.

6.52 As detailed earlier in this report policies CP5, CP6, CP13 and CP14 of the TMBCS are considered to hold significantly diminished weight and to be out of date because the LPA cannot demonstrate a 5-year supply of housing land. Notwithstanding this point, given the development retains a green gap between East and West Malling, whilst the proposal is considered acceptable in relation to the visual impact (detailed later in the report), it is considered that the development would not harm the separate identities or result in the coalescence of settlements, as such there would be no conflict with policies CP5 and CP6. Policy CP13 relates to development within the rural settlements, which the development is outside, and therefore this policy does not apply to this application. In relation to Policy CP14, which seeks to restrict all market housing in the countryside, this approach does not comply with the NPPF and is therefore out-of-date and cannot be applied in this instance.

Agricultural land quality

6.53 The application site is Grade 2 agricultural land.

6.54 Paragraph 180 b) of the NPPF is the most relevant paragraph in relation to agricultural land quality:

“Planning policies and decisions should contribute to and enhance the natural and local environment by: ...

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland; ...”

6.55 Policy CP9 of the TMBCS advises that development of the best and most versatile land (DEFRA Grades 1, 2 and 3a) will be not be proposed in the LDF unless there is an overriding need, and there is no suitable site in a sustainable location on land of poorer agricultural quality; or alternative sites have greater value for their landscape, biodiversity, amenity, heritage or natural resources or are subject to other constraints such as flooding. As such, although this policy covers agricultural land quality, policy CP9 concerns the development plan production process, rather than development management applications, and is therefore not relevant to the determination of this application.

6.56 Notwithstanding this, the loss of the best and most versatile (BMV) land comprising the application site must be assessed and weighed in the overall planning balance.

- 6.57 The proposed development would lead to the loss of BMV land, which would provide economic benefits when being used for agriculture. However, when considering the site-specific issues, the site is not ideal agricultural land, which reduces its value.
- 6.58 The land is Grade 2 agricultural land (very good quality agricultural land), which is not of the best quality, with the highest quality land being Grade 1 (excellent quality agricultural land). Additionally, due to the size of the site (6.8ha), the development is not considered a 'significant' loss in the context of footnote 62 of NPPF when taking into account the threshold for consultation with Natural England is 20ha of BMV land proposed for development.
- 6.59 The application site is small in agricultural land terms. The site lacks connectivity with the wider agricultural land owing to residential development to the east and part of the north, whilst a railway line extends along the southern boundary. The site is also in multiple landownerships which do not form part of a wider landholding. The BMV land here is therefore of limited value in business terms (yield and profitability).
- 6.60 Overall, the loss of some BMV land is an acknowledged impact of the proposed development. However, the land subject to this application would not represent a significant loss and the land is of limited value in business terms. Therefore, on balance given the lack of a five-year supply of housing land and other benefits of the proposed scheme (as detailed throughout this report and in the Planning Statement Addendum), the development would not result in an unacceptable loss of agricultural land, and the proposal does not conflict with paragraph 180 b) of the NPPF.

Character and pattern of development and impact upon visual amenities

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

"1. 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.

2. All development should accord with the detailed advice contained in Kent Design, By Design and Secured by Design and other Supplementary Planning Documents such as Village Design Statements and Planning Briefs and, wherever possible, should make a positive contribution towards the enhancement of the appearance and safety of the area.

3. 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..."

- 6.62 Policy SQ1 of the MDE DPD also relates to design and visual impact:

"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.”

6.63 Policy SQ7 advises that development proposals must by way of their design/layout maximise opportunities for healthy living and provide access to open spaces. Policy SQ9 sets out that development will only be permitted whereby it can be demonstrated that the design/layout will be suitable in deterring crime. Healthy and safe communities are further emphasised at chapter 8 of the NPPF.

6.64 These policies within the LDF are broadly in conformity with those contained within the NPPF.

6.65 Policy DC6 of the MDE DPD covers development which affects rural lanes and states that:

“In the consideration of development proposals which are in the vicinity of, or are served by, rural lanes, permission will only be granted where:

(a) the development conserves and, where appropriate, enhances the value of the lane in terms of its landscape, amenity, biodiversity, historic or archaeological importance; and

(b) any proposed alterations to the lane are the minimum necessary to serve the proposal in terms of highway safety.

Where alterations to the lane are necessary, preference will be given to the use of natural materials in keeping with the character of the area as set out in the Character Area Appraisals SPD.”

6.66 High quality design is also reiterated in the NPPF. Paragraph 135 of the NPPF seeks to 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.”

6.67 Paragraph 136 of the NPPF explains the importance of trees:

“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. Applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users.”

6.68 Furthermore, paragraph 139 of the NPPF states 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.”

6.69 Chapter 11 of the NPPF is specifically focused on ‘Making effective use of land’. Paragraph 123 and 129 are of particular relevance to this application:

“123. Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.”

“129. Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site.”

- 6.70 The current application is in outline form apart from the means of access and therefore matters of detailed design and layout are to be secured through a subsequent reserved matters planning application(s). The submission however does set-out key design principles which have been used to inform the Development Framework Plan, Building Heights Parameters Plan, Site Access & Indicative Landscape Strategy, design as detailed in the Design & Access Statement and Illustrative Masterplan extracts, to show how the development could be designed.
- 6.71 The key design principles set out within the Design & Access Statement to be followed at Reserved Matters stage, secured by planning condition, include ‘A: Retain structural vegetation’, ‘B: Central Public Open Space’, ‘C: Dense planting along Clare Lane’, ‘D: Undeveloped southern edge’, ‘E: Streets for all’ and ‘E: Lower density/farmyard style buildings’.
- 6.72 The development accommodates a residential development area measuring 4.37 hectares, providing for up to 150 homes. The average net density for the residential development area is 34 dwellings per hectare (dph). The proposed higher density residential area measures 3.77 hectares and will contain up to 132 dwellings at 35 dph. The area alongside the site's western boundary will be developed at a lower density to reflect the existing properties along Broadwater Road to the west of the site, which measures 0.6 hectares and will comprise of up to 18 dwellings at 30 dph. This density of development is considered in-keeping with the surrounding area, making an effective use of land as detailed in paragraph 129 of the NPPF.
- 6.73 The housing mix will be determined at the Reserved Matters stage, but it is expected to include a broad range of house types, sizes and tenures. A policy-complaint amount of affordable housing is proposed, at a level of 40%, with specifics of this to be agreed in the S106 legal agreement.
- 6.74 With regard to landscape effects, such matters as landscape designations, the landscape quality, scenic quality, rarity, recreational value and perceptual aspects and associations should be considered. The application is supported by a Landscape and Visual Impact Assessment (LVIA) to assess this impact. The site is however not covered by any statutory or non-statutory designations for landscape character or quality.
- 6.75 The LVIA details that the site can be seen along the PROW within the site, as well as sections of the site being visible further westwards on the PROW, including the section of PROW to the west of Broadwater Road. The northern section of the site is predominantly screened from the PROW and from the west by vegetation. The site is generally screened in views from Broadwater Road by the intervening vegetation and built form, however glimpses can be obtained from the properties and from the

railway bridge. The site can be viewed from the railway line to the south as well as from the adjoining residential properties. Views of the ground plane of the site from roads to the east are prevented by the intervening development along the roads, there are however views towards the site through gaps between the existing houses. The northern site boundary vegetation is visible from Clare Lane, although the interior of the site is screened in views due to the dense vegetation and the embankment

- 6.76 The LVIA details how the site comprises two grassed fields and part of an arable field, which are all ordinary in character and quality. There is one mature oak tree within the centre of the site, which is of higher quality and value, however, the majority of other structural vegetation is not of particular quality, with the field boundary hedges absent or gappy.
- 6.77 To the south of the site, there is the London to Maidstone/Ashford railway line, which the LVIA argues is an urbanising feature. This is however considered relatively normal for a rural landscape, with a low impact and little urbanising qualities. The adjoining settlement edge is clearly visible from the majority of the site. The settlement edge to the east of the site is harsh in parts, marked by the timber rear fences and rear facades of the 21st Century houses. Whilst there are also soft boundaries, comprising of boundary vegetation. This sets the site in the context of some built form, albeit rural village in nature.
- 6.78 The site contributes to the rural setting of East Malling. There are limited intervening views in-between houses in the western-most parts of the village and the site, however the site is clearly visible on footpath MR117 when approaching and leaving the village confines. When leaving the village, due to the presence of a converted oast, observers have the feeling of walking past an agricultural building into an agricultural landscape. When looking back at the village from within the site and to the west of the site (further along the PROW and along some sections of Broadwater Road), the appearance is of an open rural landscape comprising of an oast house, boundary edges, scrub lined railway track, trees and field boundaries, making views eastwards of a rural village edge. The site therefore contributes towards the rural setting of East Malling village and the surrounding rural Malling area.
- 6.79 Clare Lane is a rural lane, which is very enclosed by the vegetation heavy banks to each side. The heaviest and more substantial vegetation is located to the north of Clare Lane, forming the edge of Clare Park garden. The south boundary of Clare Lane comprises of overgrown hedgerow and a range of lower quality self-seeded trees. This lane contributes to the appearance of the rural transition when travelling between East Malling, the rural land in-between and West Malling. There are however currently no connections (physically or visually) between the grassed field parcel in the north of the site, and Clare Lane.
- 6.80 The northern field of the site is assessed as being of low landscape value and sensitivity. The southeastern field is assessed as being of medium quality, medium

to high landscape value, and medium sensitivity, while the southwestern field is assessed as being of medium landscape value, and medium to high landscape sensitivity, due to the fact that it is more visually open. As such, given these factors, the site has been assessed in the LVIA as being of medium value, with a medium landscape sensitivity.

- 6.81 Following construction of the development, the LVIA considers the tops/filtered views of the new homes may be visible between the intervening houses, in views from Mill Street, Darcy Court and Stickens Lane, however, they will be seen in context with the existing houses, and will not appear discordant. There will be views of the new houses from properties directly adjoining the application site, but softened by proposed landscaping. The proposed development will be visible from the public footpath MR117 to the east of the development and the section which passes through it, however the proposals include a green corridor along the footpath, which will allow for the incorporation of new tree planting to filter and soften the views of the new homes, retaining a more natural appearance. From further west along this path beyond the site, the new homes will be partially visible, filtered by the existing vegetation as well as the proposed orchard planting, however the homes will be seen in the foreground of the existing settlement. The proposed lower density and height of the development on the western edge of the site will aid in creating an appropriate transition between the countryside and the settlement, both physically and visually. The houses will be visible from the railway line when approaching from the west, seen filtered behind the intervening existing vegetation and proposed orchard planting. The new access and northernmost new homes will initially be visible in glimpsed views from Clare Lane to the north, however as the proposed tree, hedgerow and woodland planting matures, the new homes will become filtered in these views, although the access will remain visible. Views from further northwest along the road will not be materially affected, and neither will views from Clare Park, due to the intervening vegetation along the road. The tops of the new homes will be seen from Broadwater Road where there are gaps in the roadside vegetation and built form. The development will be partially screened and broken up by vegetation and trees, alongside the proposed tree/orchard planting, and while the houses will be closer, the overall character of the view will not change. The development will not be readily visible from Well Street and Stickens Lane to the south of the railway line. This visual impact is considered acceptable.
- 6.82 The indicative development proposed on the Building Heights Parameters Plan indicates buildings of between 1 and a half storeys to 2 and a half storeys (dwellings with rooms within loft spaces). The one and a half storey buildings shall be situated along the western edge of the development to offer a softer transition between the proposed development and the adjacent countryside, thereby reducing the visual impact to the west and creating an appropriate transition between the denser village core and the rural countryside beyond. The proposed lower density development within the west of the site reflects the looser character of the scattered properties on Broadwater Road. Two-storey dwellings are proposed throughout, with two and a half storey homes located in more central parts of the development, mainly

concentrated along the primary street, reflecting the character of East Malling village and to emphasise the importance of the primary street, to mark the importance of key spaces, to terminate views and vistas along the new streets and to punctuate the roofscape. This scale of development is considered acceptable for the locality, drawing upon the scale of East Malling village and appropriate in relation to the landscape and visual impacts.

- 6.83 The proposed development is shown to include 2.32ha of green infrastructure, including informal and formal public open space, an equipped children's play space, a community orchard, structural landscape planting and an attenuation basin. Thicket and tree planting, alongside enhancements to existing grassland, with open space and wildlife area are indicated towards the south boundary with the railway line. This will mitigate the impact of the development on local wildlife, provide a softer southern boundary for the site and enhance the green ecological link here. A new native hedgerow and orchard is proposed along the south western edge of the site, in order to form a clear soft edge to the development, drawing on the historical use of the land and to create an appropriate transition between the settlement and the countryside beyond, which will also aid in filtering and softening views of the new development from the west. The public open space and SuDS attenuation basin are indicated along the boundary of PROW M117, thereby retaining a more natural appearance to the public footpath, aiding further with wildlife and lessening the visual impact to the area where views of the site can be obtained as existing. New street trees and trees within the open spaces are also proposed, in order to create an attractive landscape and setting to the new homes. The mature oak tree within the centre of the site, as well as the remnant hedgerow between the two southern fields and much of the existing structural landscaping will be retained and incorporated into the layout of the proposed development, with only a couple of short sections of hedgerow requiring removal to allow internal access, thereby minimising the impact of the development upon the existing landscape. The indicative landscaping is considered acceptable, minimising the impact of the development on the surroundings and providing a wealth of benefits.
- 6.84 The Design and Access Statement has been amended with an addendum, with indicative layouts and building appearances being indicated. The indicative design and layout being aimed for is that of a farmstead and rural village. The layout follows a more rural arrangement to reflect the existing settlement pattern within East Malling, with its natural organic growth. The indicative external appearance for the buildings includes red and orange brickwork with a water struck finish, timber weatherboarding, red hanging tiles, exposed timber frames, hipped roofs, hipped dormers, grey and orange plain roof tiles and chimneys where appropriate. This draws on the development site at Franklin Kidd Lane East Malling, as well as giving a nod to the agricultural history of the site. This will further aid in reducing the visual impact of the development. The development shall appear a natural and rural organic growth of East Malling as opposed to an urban extension, extending from the modern development at Darcy Court and newer houses along Stickens Lane. The development shall also be bound by the railway line to the south, similar to the

majority of East Malling village. The indicative layout and appearance of the development is appropriate considering the location of the development site.

- 6.85 Works are proposed along Clare Lane to form the site access. In order to preserve the rural character of Clare Lane, careful consideration has been given to the design of the road, and the proposed landscaping. The proposed access involves the removal of some trees to the south of Clare Lane to facilitate the entrance to the development, alongside the formation of a pathway along Clare Lane. It will be necessary for some re-profiling of the existing ground levels in order to construct the access road at an appropriate gradient suitable for vehicles. The cut and fill slopes are assumed to be at a gradient of 1:2 (50%) to tie into the existing slopes along Clare Lane. The gradient of the access road will vary between 1:16.7 (6%) and 1:20 (5%). There will be an impact upon the character of the street scene as a result of forming this new access, reducing enclosure and impacting the character of the lane. The plans submitted however clearly illustrate that the vehicular access plans simply propose what is essential in order to facilitate safe access to the development site.
- 6.86 The vegetation and trees proposed for removal are not considered significantly important and can easily be replaced. The indicative landscaping for the access as shown on the Site Access & Indicative Landscape Strategy shows a very natural appearance is aimed for, comprising of native trees with a mix of sizes, a wildflower mix, a woodland mix of trees, thicket planting and specimen focal trees, in order to reinstate the vegetated and enclosed character along Clare Lane, to compensate for the loss of vegetation here and to screen the development from the street scene. There will be a loss of vegetation and openness formed initially, however it is considered that the access once established shall become less visually prominent and shall appear similar visually to Clare Wood Drive, which appears in-keeping with Clare Lane and the rural surroundings. A pathway will be formed along Clare Lane, which will add an element of urbanisation to this rural lane. However, as this is proposed predominately along the south-side, which is closest to existing built form, a path would not appear out-of-place. It is acknowledged that some trees on/adjacent to Highways land on the southern side of the roadway may be lost, however these trees are of a lower quality than those to the north of Clare Lane, contributing less to the appearance of the street scene and this is a far better outcome than losing the better quality and more significant trees on the northern side. The path in-front of the school and closest to the access of the site are short in length and minor interventions, aiding significantly with permeability and pedestrian connectivity. The pathway associated with the development has been limited to what is necessary to serve the development, with the developer agreeing to provide traditional style street lighting as opposed to modern street lighting. The detailed design of the path and street lights can be ensured by planning condition to ensure that the landscape, amenity, biodiversity and history of the rural lane is conserved. The proposed access arrangements are therefore considered acceptable in relation to design and visual impact.

- 6.87 Conditions are recommended in relation to securing the detailed development under the reserved matters, levels, landscaping/boundary treatments, access road, trees and the design of the offsite highways works in the interests of design and visual amenity.
- 6.88 Comments from both TMBC Waste and Kent Police relate to detailed design, and as such informatives are recommended to bring these comments to the attention of the developer.
- 6.89 Overall, the site's character will change from grassland fields and an arable field, to a new area of residential development and associated open space, however the new development would have a layout that reflects the village, would have new homes designed to reflect the historic vernacular of the area, and the new and retained landscaping will ensure that the development is attractive and minimises its landscape impact. It is therefore considered that the proposed parameters for the application site accord with landscape related planning policy. The proposals are capable of being accommodated within the landscape without undue levels of harm to landscape character or visual amenity. In conclusion, the proposed development due to its scale and siting would not be detrimental to the overall character of the countryside in this location due to the physical landscape features being retained, the proposed enhancements to the landscape features and the indicated design and layout which would ensure that the proposed development would not result in significant effects to the character and appearance of the area, nor its visual amenity. On this basis it is considered that the proposed development is in accordance with CP24, SQ1, SQ7 and paragraphs 123, 129, 135, 136 and 139 of the NPPF.

Open space

- 6.90 Policy OS3 of the MDE DPD explains that on all residential developments of 5 units or above (net), there will be a requirement for open space provision in accordance with the quantitative standards and sequential approach set out in the policy annex. Where it is impractical or inappropriate to provide open space on-site, off-site provision or a financial contribution towards such provision or enhancements to existing provision shall be sought in accordance with the policy annex. Any new on-site or off-site provision will be required to be located, where feasible, where it can provide a connection to the network of existing open spaces and wildlife corridors. Appropriate measures the lay out the land and for maintenance shall be sought.
- 6.91 Policy OS5 sets out that any open spaces provided within new developments must where practicable be located where they provide a connection to the existing network of open spaces and green corridors. Such spaces should provide opportunities for walking, cycling and where appropriate, horse riding between and through open spaces, as well as opportunities for natural habitat creation and species migration. New open spaces provided in association with new development

must be managed to facilitate natural habitat creation and to allow, wherever practicable, for species migration across the Green Infrastructure Network.

- 6.92 Policy OS6 then goes on to explain that proposals for development will only be permitted if new open spaces provided in association with development, and any enhancements to existing provision, are wherever practicable, located where they can be accessible by foot, bicycle, public transport and by people with disabilities and, where appropriate, by horse, and designed to minimise the risk and fear of crime by incorporating natural surveillance.
- 6.93 The NPPF at paragraphs 8b), 88d), 91a) and 102 promote the incorporation of open spaces within developments to support communities' health, social and cultural well-being, alongside benefitting for nature and in addressing climate change.
- 6.94 The proposed development includes approximately 2.3ha of green infrastructure. Within the green infrastructure, there will be new areas of open space to offer a range of social, leisure, and recreational opportunities for both the new residents and the existing residents of East Malling. These spaces include areas of natural green space, a children and young person play area by way of a 400m² Locally Equipped Area for Play and 21,300m² of amenity green space comprising of new and existing vegetation, orchards, attenuation basins, green corridors, existing public footpath and pedestrian routes. Areas of deficiency in relation to open space provision (parks and gardens and outdoor sports facilities) can be sought via legal agreement, with TMBC Leisure services having assessed the requirements and requested accordingly. This level of on-site open space provision, including play space and community orchard is a significant social benefit of the scheme, weighing in favour of the development.
- 6.95 The areas of landscaping and open space will be linked with existing green corridors and landscaping by way of tree corridors and hedgerows. The spaces are shown to be linked to the existing public right of way network MR117 and would be accessible to members of the public. Given the scale and siting of the development, it is not considered appropriate or necessary to allow equestrian use of the open spaces and PROW, and it would not be appropriate to allow cycle use of MR117.
- 6.96 Given that the application is currently at outline stage, full details of the open space to be provided on site along with a timetable for provision and a scheme for future management of the spaces can be sought by planning condition.
- 6.97 Overall, given the above, the development complies with policies OS3-OS6 of the MDE DPD and paragraphs 8b), 88d), 91a) and 102 of the NPPF.

Access, highways and transport

- 6.98 Policy CP2 relates to sustainable transport and explains that:

“New development that is likely to generate a significant number of trips should:

- (a) be well located relative to public transport, cycle and pedestrian routes and with good access to local service centres;*
- (b) minimise the need to travel through the implementation of Travel Plans and the provision or retention of local services and facilities;*
- (c) either provide or make use of, and if necessary enhance, a choice of transport modes, including public transport, cycling and walking;*
- (d) be compatible with the character and capacity of the highway network in terms of the volume and nature of traffic generated;*
- (e) provide for any necessary enhancements to the safety of the highway network and capacity of transport infrastructure whilst avoiding road improvements that significantly harm the natural or historic environment or the character of the area; and,*
- (f) ensure accessibility for all, including elderly people, people with disabilities and others with restricted mobility.”*

6.99 Policy SQ8 of the MDE DPD covers road safety and states that:

- “1. Before proposals for development are permitted, they will need to demonstrate that any necessary transport infrastructure, the need for which arises wholly or substantially from the development is in place or is certain to be provided.*
- 2. Development proposals will only be permitted where they would not significantly harm highway safety and where traffic generated by the development can adequately be served by the highway network.*
- 3. Development will not be permitted which involves either the construction of a new access or the increased use of an existing access onto the primary or secondary road network (as defined by the Highway Authority) where a significantly increased risk of crashes or traffic delays would result. No new accesses onto the motorway or trunk road network will be permitted.*
- 4. Development proposals should comply with parking standards which will be set out in a Supplementary Planning Document.*
- 5. Where significant traffic effects on the highway network and/or the environment are identified, the development shall only be allowed with appropriate mitigation measures and these must be provided before the development is used or occupied.”*

6.100 Paragraph 114 of the NPPF states that in assessing development applications, it should be ensured that appropriate opportunities to promote sustainable transport modes have been taken up, given the type of development and its location, that safe and suitable access to the site can be achieved for all users, the design of transport elements reflect current national guidance and any significant impacts from the

development on the transport network or on highway safety can be cost effectively mitigated to an acceptable degree.

6.101 Paragraph 115 of the NPPF sets-out when applications can be refused permission on highways grounds:

“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”.

6.102 Paragraph 116 goes on to state that, within this context, applications for development should:

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

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

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

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

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

6.103 Paragraph 117 then sets out that all developments that will generate significant amounts of movement should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.

6.104 In relation to public rights of way, paragraph 104 of the NPPF details that:

“Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.”

6.105 The application is supported by a Transport Assessment, a Travel Plan, a series of Transport Technical Notes and highways access drawings.

6.106 Vehicular access into the Site will be taken from a proposed priority controlled T-junction to the south side of Clare Lane. This will be on the section of land adjacent to 29 Clare Lane. The level of visibility designed for the proposed access is based

upon the observed speeds, which can be achieved within the existing highway boundary and land within the applicant's control. The access has been subject to a full road safety audit with all recommendations being incorporated to ensure the design is appropriate. The proposed access is therefore considered acceptable.

- 6.107 The submitted transport assessment indicates that the development is likely to generate 69 two-way movements in the AM peak (08:00-09:00) and 65 two-way movements in the PM peak (17:00-18:00), with the majority (circa 60%) of development traffic anticipated to route via the A20 (east or west), with the remaining traffic routing via Lucks Hill, High Street or Lunsford Lane. It is acknowledged that the surrounding highway network includes areas of on street parking, blind bends and narrow roads. The applicant has however assessed the traffic impact upon the locality (including existing and consented developments) and provided personal injury collision records for the locality. The additional traffic generated would not be highly significant and when considered alongside the good personal injury collision record in the vicinity, which confirms that neither the highway layout or any defects within it are a contributory factor in any of the recorded collisions, there is no evidence that the additional traffic could worsen conditions to the point that could be reasonably described as severe. Specifically the site access junction with Clare Lane (Priority Junction), Lucks Hill/Winterfield Lane/Clare Lane/Broadwater Road (Staggered Junction) and Winterfield Lane/Chapham Way (Priority Junction), shall operate within capacity without any unacceptable levels of queuing or delays. The A20, London Road/Lunsford Lane/Winterfield Lane (Signal Controlled Junction) will operate over capacity, however this will only be marginally worse and not to a level considered unacceptable. Finally, at Mill Street and High Street (Highway Links), the amount of additional traffic (maximum of 8 trips in the PM peak) anticipated to route through this link is modest and given the good personal injury collision record at this link, the additional traffic generated by the development would not unacceptably impact upon safety or capacity.
- 6.108 Given the existing speed limit is being exceeded, the application proposes a series of off-site highway works by way of traffic calming. This is proposed to include 30 mph rondels with coloured surfacing, 30 mph repeater signs, a vehicle activated sign, a welcome to East Malling sign and new lighting columns. These measures are considered prudent and proportionate. The applicant previously proposed vertical deflection measures also. These have been removed at the request of KCC Highways and it would not be suitable for Clare Lane to currently have vertical deflection measures installed. This is because they would be isolated and not in keeping with the existing road environment outside of the village boundary, potentially creating a hazard due to motorists failing to anticipate the proposed vertical deflection.
- 6.109 Matters of parking, turning and servicing within the development are for future consideration at the reserved matters stage, and are covered by appropriate planning conditions.

6.110 The site currently includes public right of way MR117, which is a public footpath. The section that crosses the site is proposed to be improved by way of surface improvements and lighting. The PROW shall be crossed by a single internal access road, with the PROW being sited within the onsite open space, thereby protecting its appearance. Detailed design of the PROW can be provided at reserved matters stage. Contributions shall be paid for offsite improvements to the PROW network, including MR117 and MR118, by way of upgrading the surfaces and installing new signage. These improvements are considered acceptable and are one of the key benefits of the scheme. These improvements will benefit both existing and new residents, with the improvements to the west of MR117 significantly increasing pedestrian connectivity westwards to West Malling as they shall improve all weather use of this path, which is often unusable at times of inclement weather, whilst no alternative off-road routes exist. A new crossing on Mill Street is proposed between MR117 and Middle Mill Road and can be secured via S278 agreement. The proposals and impact upon the PROW network have been reviewed by KCC PROW Team and KCC Highways and considered acceptable. KCC PROW Team have recommended a condition for a PROW management scheme and for details of works to the PROW within the site, which is recommended to be attached.

6.111 It is however worth noting that MR117 cannot be the only pedestrian access from the site to East Malling village centre as this shall remain unlit and lacks natural surveillance, which shall discourage its use, especially at times of darkness. Therefore, a dedicated and lit pedestrian link is proposed along the site access onto Clare Lane, running along existing highway land to the south side of Clare Lane, then subsequently crossing to the north side of Clare Lane in-front of the Malling School. This provides good pedestrian access to/from East Malling, linking in with the existing facilities on Mill Street. These off-site highways works have been subject to an independent stage 1 Road Safety Audit (RSA), with the auditor's recommendations accepted and amendments incorporated into the design, therefore the design is considered safe. This access is specifically required by the Local Highway Authority, ensuring an appropriate, logical, direct and obvious all-weather route to the village centre. The works shall be provided prior to any occupations occurring and via a S278 agreement with Kent County Council. However, given that the pathway is sited within a Conservation Area, specific details of the pathway surfacing and lighting can be obtained via a planning condition. This pathway significantly improve pedestrian connectivity in this area, being a key social benefit of the proposal.

6.112 In relation to sustainability, within walking distance there are local schools, a public house, recreational facilities in the form of playing fields and a tennis club. Some facilities can be accessed by bike within the locality; however it is acknowledged that trips to further destinations maybe discouraged by the level of traffic on the busier roads in the wider area. Details of cycle storage and its permanent retention to aid with cycling uptake can be sought via planning condition.

- 6.113 The Transport Assessment outlines the availability of public transport services. East Malling contains a train station (650m from the site) with a reasonable level of service to/from local and regional destinations, with an enhanced frequency of service at peak times. The closest bus stop is 270m from the site on Mill Street/Stickens Lane served by bus service number 58, however lacks suitable waiting facilities and therefore bus journeys may be more limited. This provides journeys to West Malling and Maidstone.
- 6.114 A Framework Travel Plan has been submitted with the application. This sets out how the applicant intends to encourage travel by alternative, more sustainable means, including the provision of broadband to all properties, distribution of travel information, upgrading of the nearby PROW and a traffic calming scheme to create a more cycle friendly environment. This is considered reasonable.
- 6.115 The application has been reviewed by KCC Local Highway Authority, who have considered the impact of the development proposals upon highway network, and they raise no objection subject to a series of planning conditions. These conditions are recommended to be attached to the decision notice, apart from the EV chargers' condition. It is recommended that an informative be attached instead for EV chargers (alongside other informatives recommended by KCC Highways) as Building Regulations cover the detailed design of such provision.
- 6.116 Kent Fire and Rescue are satisfied with the proposals in relation to emergency access. Their guidance is recommended to be attached as an informative on the decision notice.
- 6.117 The application has also been reviewed by National Highways in relation to the impact of the development upon the strategic road network. They are content that the proposals, if permitted, would not have an unacceptable impact on the safety, reliability, and/or operational efficiency of the Strategic Road Network in the vicinity of the M20 provided a planning condition in relation to a construction traffic management plan and travel plan are attached.
- 6.118 In light of the above assessment and the lack of objections from KCC Highways, I am satisfied that the development would not result in an unacceptable impact on highway safety and the residual cumulative impacts on the road network would not be severe. The development would be sustainable in relation to transport and would enable good pedestrian access to/from the site to facilities in the locality. It would therefore not conflict in any way with Policy CP2 of the TMBCS, Policy SQ8 of the MDE DPD or paragraphs 114-116 of the NPPF.

Ecology, biodiversity and trees

- 6.119 Policy NE2 of the MDE DPD requires that the biodiversity of the Borough and in particular priority habitats, species and features, will be protected, conserved and enhanced.

6.120 Policy NE3 states that development that would adversely affect biodiversity or the value of wildlife habitats across the Borough will only be permitted if appropriate mitigation and/or compensation measures are provided which would result in overall enhancement. It goes on to state that proposals for development must make provision for the retention of the habitat and protection of its wildlife links. Opportunities to maximise the creation of new corridors and improve permeability and ecological conservation value will be sought.

6.121 Policy NE4 further sets out that the extent of tree cover and the hedgerow network should be maintained and enhanced. Provision should be made for the creation of new woodland and hedgerows, especially indigenous broad-leaved species, at appropriate locations to support and enhance the Green Infrastructure Network.

6.122 These policies broadly accord with the policies of the NPPF. In particular, paragraph 180 a) and d) and paragraph 186:

“180. Planning policies and decisions should contribute to and enhance the natural and local environment by:

a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

...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;...”

“186. When determining planning applications, local planning authorities should apply the following principles:

a) 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;...

...c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and

d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.”

6.123 Specifically in relation to trees, paragraph 136 of the NPPF details that:

“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. Applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users.”

- 6.124 Section 40 of the [Natural Environment and Rural Communities Act 2006](#) places a general duty on all public authorities, including the local planning authorities, to conserve and enhance biodiversity.
- 6.125 The site and the surrounding area are not subject to any ecological designations. There are no nearby ecological statutory designated sites, with the site being 5km from the North Downs Woodland Special Area of Conservation, 5.3km from the Peter's Pit Special Area of Conservation and 1.9km from the Ditton Quarry Local Nature Reserve. There are six non-statutory sites present within a 2km radius, with the nearest ecological non-statutory designation being Leybourne Wood Local Wildlife Site, 1000m to the north-west. No significant adverse effects to these designations are anticipated as a result of the proposed development.
- 6.126 An Ecological Impact Assessment, Biodiversity Net Gain Plan and supporting ecological information have been submitted in support of the application, which provide a good understanding of the ecological interest of the site.
- 6.127 Habitats currently present within the site are generally common and widespread, with the greatest ecological interest associated with the native hedgerows and semi-improved grassland with Meadow vetchling and pyramid orchid. The Ecological Impact Assessment sets-out that the scheme seeks to retain hedgerows and other habitats wherever practicable, with compensatory planting provided within retained open space areas. Subject to the provision and retention of these areas of habitat within the sites biodiversity areas the proposal would be considered appropriate. This matter would need to be demonstrated through the detailed plans at reserved matters stage and can be secured by condition.
- 6.128 A breeding population of common lizards *Zootoca vivipara* have been recorded on-site. Relatively high numbers of several common and widespread species of bat have also been recorded utilising the Site for foraging (6 species in total). 43 species of birds were recorded, with 9 confirmed and 29 possible/probably breeding. The site also has the potential for harvest mouse, hedgehogs and invertebrates, with a suitable habitat for breeding birds and trees with low bat potential. There is no evidence of an active badger sett on site, however badgers are highly active and therefore updated badger surveys will need to be carried out as part of any

mitigation strategy. Mitigation is proposed within the Ecological Impact Assessment to address potential impacts on the protected species and ensure compliance with applicable legislation, with specifics of this secured by planning condition.

- 6.129 The majority of birds within the Bird Survey were found within the site boundaries and very few ground nesting birds were recorded. However birds were recorded foraging within the site and therefore there will be a reduction of foraging habitat for birds within the surrounding area. The majority of the site boundaries will be retained within the site and those within the areas of open space can be enhanced to try and minimise disturbance from the development. The management plan (to be secured by condition) will ensure that the hedgerows on site will be managed to create dense/thick hedgerows.
- 6.130 The reptile population will be retained on site within the open space, with a knee high rail to deter access. The southern boundary is indicated to be managed to benefit reptiles. Grassland with Meadow vetchling and pyramid orchid will be retained. The management of these areas will need to be detailed in the management plan to ensure that there are no conflicts with the different uses, which shall be secured by planning condition.
- 6.131 Bats have been recorded on site but largely within the site boundaries which are indicated to be retained. The management of the open spaces appropriately will ensure that there are foraging / commuting opportunities, ensured by the management plan condition. Additionally, a condition is proposed to ensure that any lighting proposed is appropriately designed to limit the impact on nocturnal species.
- 6.132 The ecological assessment details that enhancement features will be incorporated into the site. New habitat creation is proposed to include on-site drainage with a network of swales and an attenuation basin, landscape and wildflower planting, native hedgerows, new trees, community orchard, wildflower grassland, wildlife pond, management of areas in the southern part for the benefits of reptiles and enhancement of existing grassland. In addition to this there shall be the incorporation of bat, bird, insect and hedgehog boxes, log piles and hedgehog gaps will be provided. Given the application is an outline application, detailed opportunities for ecological enhancement can be secured by planning condition, however these proposed benefits weigh significantly in favour of the proposed development.
- 6.133 The application was submitted prior to the requirement for mandatory biodiversity net gain (BNG) – therefore there is no requirement for the development to deliver a BNG. The applicant has however submitted a copy of Defra's Biodiversity metric with the submission to demonstrate the potential biodiversity benefits of the development. As the application was submitted prior to the commencement of mandated BNG, 10% is not required under the legislation however where the Defra biodiversity metric is used to demonstrate a biodiversity net gain in accordance with

the National Planning Policy Framework 2023, a minimum of 1% net gain has previously been accepted under appeal ruling.

- 6.134 This metric has been reviewed by KCC Ecological Advice Service, who agree with the baseline of the metric, but would like to see the proposed habitat baseline updated. This is because the submitted assessment details that the proposal will result in a loss of nearly 6% for habitats, whilst there are also elements of discrepancy between different plans relating to the proposed habitats. This confusion is likely to be as a result of the development being at outline stage when site specifics are unknown. It is clear from the submission that a biodiversity net gain is being aimed for by the applicant. As such, a revised BNG metric and biodiversity gain plan can be secured via a condition with the reserved matters application. A BNG monitoring mechanism shall be included with the S106 legal agreement to ensure that off-site BNG can also be obtained, and the development shall be of a benefit to biodiversity. The BNG obtained via on and off-site measures is another benefit of the development, weighing in its favour.
- 6.135 Overall, the proposed development and outline mitigation measures have been designed to achieve compliance with relevant legislation and planning policy. Measures are proposed to avoid killing or injury of protected species such as bats, Badger, birds and reptiles (protected under the Wildlife and Countryside Act 1981, the Conservation of Habitats and Species Regulations 2017 and the Protection of Badgers Act 1992) and opportunities for enhancements and gains for biodiversity are also proposed, in accordance with NPPF.
- 6.136 In relation to trees, the submission includes an Arboricultural Assessment. The tree survey has recorded all trees on and immediately adjacent to the site and has assessed the potential impacts of the proposed development of the site on the existing trees. There are no trees on site covered by a Tree Preservation Order ('TPO'). A total of 20 individual trees, 11 groups and three hedgerows were surveyed as part of the Tree Survey. The majority of these were located in the peripheral areas of the site, along the site boundaries. Two trees and three groups of trees were located away from the site boundaries. The majority of tree and hedgerow cover on site has been assessed to be C Category, which means it is of low quality. Many of the other trees and hedgerows on site have been assessed to be B Category, which means they are of moderate quality and should be retained where possible. One tree, a mature English oak, has been assessed to be A Category and should be retained and should inform the layout of the new homes.
- 6.137 A Tree Retention Plan has been prepared to show the proposed layout in relation to the existing tree cover. This shows that a number of trees would be required to be removed to facilitate access, including Groups G1, G2 and G9 and parts of Groups G5 and G8. This loss will be mitigated through new, on-site planting. The survey also shows that some hedgerows would need to be removed to facilitate access, however this would be mitigated through further hedgerow planting on site. The indicative access landscape strategy shows that a significant amount of landscaping

will be proposed around the access, thereby safeguarding the appearance of Clare Lane and offsetting the proposed loss.

6.138 The pathway to access the site along Clare Lane has been sited along the south side of the road. The proposed footpath being predominantly on the southern side of Clare Lane is a sensible proposal as it will ensure the retention of the roadside trees of higher amenity value to the northern side. It is acknowledged that some trees on/adjacent to Highways land on the southern side of the roadway may be lost, however these trees are of a lower quality and this is a far better outcome than losing the better quality and more significant trees on the northern side. When the path crosses to the north side of Clare Lane, the path becomes a no-dig pathway which should ensure that impact upon adjacent trees is limited, however this will be ensured by planning condition.

6.139 The Council's Tree and Landscape Officer has reviewed the arboricultural details and is content with the proposals and conclusions. However, to ensure a satisfactory scheme comes forward, conditions are recommended in relation to levels, details of services in relation to trees (to ensure service runs are outside root protection areas of retained vegetation and away from planting areas), landscaping, tree protection and method statement to take account of the finalised scheme, a tree felling and pruning specification, landscape maintenance for communal/non-residential areas and a condition to ensure the footpath along Clare Lane has no unacceptable impact upon nearby trees, alongside any mitigation measures to offset the impact of the proposed new footpath.

6.140 The applicant has undertaken discussions with the Malling School regarding the planting of additional trees within the school grounds to offset any potential loss of trees to enable the pathway along Clare Lane and to contribute towards enhancing the character of the Conservation Area. As no trees are currently proposed to be removed as part of the highways works along the north side of Clare Lane, we cannot insist this shall be undertaken currently. However, an informative shall be attached to remind the developer to engage with the Malling School further regarding this proposal, and if trees shall be lost as a result of the highways works, the provision of these trees would be expected to be seen and secured under planning condition 18 relating to the proposed offsite pathway. Notwithstanding this, the submission clearly details that the applicant intends that the developer shall undertake this tree planting, irrespective of the tree loss along Clare Lane as a result of the pathway – therefore this is considered to be a significant benefit of the scheme, resulting in an enhancement to the environment around Clare Lane.

6.141 Based on successful implementation of the proposed avoidance, mitigation and enhancement measures, alongside conditions and obligations relating to trees and ecology, the development is not anticipated to result in any significant residual adverse effects on important ecological features, and would have a net positive effect on habitats, biodiversity and trees. As such it is considered that the proposals

will accord with all relevant national and local planning policy in relation to ecology and trees, including Policies NE1-NE4 of the MDE DPD and the NPPF.

Noise, light and air pollution, and contamination

6.142 Paragraph 180 e) of the NPPF relates to pollution and details that:

“Planning policies and decisions should contribute to and enhance the natural and local environment by:

e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans;”

6.143 Policy SQ4 relates to air quality and explains that:

Development will only be permitted where all of the following criteria are met:

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

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

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

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

6.144 The application is supported by an Air Quality Assessment, which considers dust and fine particulate matter during the construction phase, and road traffic emissions during the operational phase. The report considers that during the construction phase, issues can be addressed through mitigation measures based on best practice. Once the development is constructed and occupied, the impact of the development on air quality is predicted to be negligible at all eighteen existing sensitive receptors that were assessed. Air quality effects are therefore considered to be 'not significant'.

6.145 No objection to this assessment has been raised by Environmental Health. As such, the development accords with national planning policy and policy SQ4 and will not lead to an unacceptable risk from air pollution, however to ensure no unacceptable

impacts occur during construction, a construction management plan condition is recommended.

6.146 In relation to contamination, paragraph 189 of the NPPF states that planning policies and decisions should ensure that:

“a) a site is suitable for its proposed use taking account ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);

b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and

c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.”

6.147 Paragraph 190 makes clear that *“where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner”*.

6.148 In terms of land contamination, the application is supported by a Preliminary Geo-Environmental Risk Assessment. The report presents the findings of a desk study and site walkover. It reviews the history and environmental setting of the site. No significant sources of contamination were identified and the site is considered to present a negligible potential contamination risk to both construction workers and future site occupants. Any unexpected contamination is anticipated to be localised and would be addressed during the development works through a discovery strategy.

6.149 Environmental Health have reviewed the assessment and are satisfied with the assessment and conclusions of the report. On the basis of available data and information, it is considered that the site or any adjacent site are not of potential concern. They have however advised that due to the size of the site and the potential for minor sources of contamination to have been missed (such as fly tipping), that a condition covering unforeseen contamination should be attached.

6.150 Accordingly, with this planning condition attached, the development would adhere to paragraphs 180e) 189 and 190 of the NPPF.

6.151 In relation to noise and light pollution, paragraph 191 of the NPPF states:

“Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well

as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;

b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and

c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.”

6.152 Policy SQ6 of the MDE DPD details that in considering the impact of noise from transport-related sources on proposal for new residential development, the Noise Exposure categories (NECs) identified in the policy annex will be applied. It also explains that proposals for noise-sensitive development will be required to demonstrate that noise levels are appropriate for the proposed use, and proposals for built development should incorporate design measures such that internal noise levels are demonstrated to meet the criteria levels in relevant guidance.

6.153 The application is supported by a noise impact assessment. The dominant noise source, which will potentially affect some of the residents of the development, is from the railway line south of the site. The noise impact assessment concludes that large parts of the development will meet BS8233 external and internal criteria without mitigation across the site. Confirmation has been provided by the applicant that train levels remain similar to those noted at the time of the original assessment.

6.154 Environmental Health have advised that the assessment satisfactorily demonstrates that the proposed development can be developed with certain noise mitigation methods, subject to an updated report at detailed design stage to provide specifics of this, including details of all train passes including that from freight. The development is therefore considered acceptable in relation to the acoustic environment, subject to a planning condition requiring the submission of a further noise report.

6.155 At the current stage, the method of construction is unknown, as such in the interests of aural amenity of nearby residents (as well as protecting groundwater), a condition relating to piling techniques is recommended.

6.156 In relation to light pollution, no issues have been raised by Environmental Health and neither is the site located within a defined intrinsically dark landscape. However, given the low levels of lighting in the locality and the undeveloped nature of the site as existing, submission of any lighting details shall be requested by planning condition.

6.157 Overall, given the details of the submitted information, the comments from Environmental Protection and the recommended planning conditions, the development would accord with policy SQ6 of the MDE DPD and paragraphs 180 and 191 of the NPPF.

6.158 Given the siting of the development, planning informatives are also recommended in relation to light, working hours and bonfires.

Foul drainage

6.159 Policy SQ5 of the MDE DPD requires that all development will be expected to ensure that adequate water and sewerage infrastructure is present or can be provided in order to meet future needs without compromising the quality and supply of services for existing users.

6.160 Paragraph 180 e) of the NPPF details that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of water pollution.

6.161 The application proposes for the development to connect to the existing foul sewage system via a gravity connection. With upgrades to the existing network, which is a responsibility of Southern Water, an acceptable means of disposing of foul water can be achieved with a connection to the public sewer system.

6.162 Comments of Southern Water are noted regarding the existing sewer system requiring upgrades; however it is the duty of the sewage undertaker to deliver upgrades to facilitate development, and this cannot hold-up the delivery of development. An informative will bring this matter to the attention of the developer. Details of the on-site foul drainage can however be secured via planning condition.

6.163 Overall, the foul drainage details are considered acceptable, complying with policy SQ5 of the MDE DPD and paragraph 180 e) of the NPPF.

Archaeological matters

6.164 Paragraph 200 of the NPPF states that where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

6.165 The application is supported by a Heritage Statement, which includes a brief summary of the archaeological potential. It considers that there is limited evidence to indicate that the site was the focus for any activity during any prehistoric period or the Romano-British period. Consequently, the potential for significant archaeological remains dating to these periods is low. The site is considered likely to have formed

part of the agricultural hinterland of nearby settlements which had been established during the medieval period. The potential for significant archaeological remains within the site is therefore low. The site is recorded variously in arable and orchard usage during the later post-medieval and modern periods, a use which it is considered likely to have held for some time prior to this. The potential for significant archaeological remains dating to the post-medieval or modern period is therefore low. It therefore reaches a conclusion of the site having low archaeological potential.

6.166 KCC's Senior Archaeological Officer has advised that the site of the development is an area of potential associated with prehistoric and Roman activity, with settlement and villa sites known in the area. The site lies to the west of East Malling, which is considered to be a Medieval settlement and may have been an early medieval community. There are historic post medieval farms around the application site and remnant archaeological landscape features, such as field boundaries, ditches, etc may survive on site. Given this potential and as no detailed site investigation has been undertaken, to adhere to paragraph 200 of the NPPF, it is considered reasonable to attach the programme of archaeological work condition recommended by KCC Archaeology, thereby safeguarding archaeological remains.

6.167 Overall, on this basis and with the condition attached, it is considered that the works would not have an adverse impact on heritage assets and would therefore be in accordance with chapter 16 of the NPPF (2023).

Minerals

6.168 Policy CSM5 of the KMWLP states:

“Economic mineral resources are safeguarded from being unnecessarily sterilised by other development by the identification of:

- 1. Mineral Safeguarding Areas for the areas of brickearth, sharp sand and gravel, soft sand (including silica sand), ragstone and building stone as defined on the Mineral Safeguarding Area Policies Maps in Chapter 9*
- 2. Mineral Consultation Areas which cover the same area as the Minerals Safeguarding Areas and a separate area adjacent to the Strategic Site for Minerals at Medway Works, Holborough as shown in Figure 17*
- 3. Sites for mineral working within the plan period identified in Appendix C and in the Mineral Sites Plan.”*

6.169 Also of relevance from the KMWLP is policy DM7:

“Planning permission will only be granted for non-mineral development that is incompatible with minerals safeguarding, where it is demonstrated that either:

- 1. the mineral is not of economic value or does not exist; or*

- 2. that extraction of the mineral would not be viable or practicable; or*
- 3. the mineral can be extracted satisfactorily, having regard to Policy DM9, prior to the non-minerals development taking place without adversely affecting the viability or deliverability of the non-minerals development; or*
- 4. the incompatible development is of a temporary nature that can be completed and the site returned to a condition that does not prevent mineral extraction within the timescale that the mineral is likely to be needed; or*
- 5. material considerations indicate that the need for the development overrides the presumption for mineral safeguarding such that sterilisation of the mineral can be permitted following the exploration of opportunities for prior extraction; or*
- 6. it constitutes development that is exempt from mineral safeguarding policy, namely householder applications, infill development of a minor nature in existing built up areas, advertisement applications, reserved matters applications, minor extensions and changes of use of buildings, minor works, non-material amendments to current planning permissions; or*
- 7. it constitutes development on a site allocated in the adopted development plan where consideration of the above factors (1-6) concluded that mineral resources will not be needlessly sterilised.*

Further guidance on the application of this policy is included in a Supplementary Planning Document.”

- 6.170 Paragraph 218 of the NPPF details that Local planning authorities should not normally permit other development proposals in Mineral Safeguarding Areas if it might constrain potential future use for mineral working.
- 6.171 The application site is in a Mineral Safeguarding Area for the Hythe Formation (Ragstone), the Sandgate Formation and the Folkestone Formation that are safeguarded by virtue of Policy CSM 5: Land-won Mineral Safeguarding.
- 6.172A Mineral Resource Assessment has been submitted with the application. The assessment concludes that most of the minerals on the site have already been sterilised by pre-existing residential development, and if mineral extraction were to take place, then a 100m buffer zone would be required, reducing the area of mineral extraction to approximately 3.5 ha, which is too small to be a commercially viable mineral resource. The Folkestone Formation within the application area is too limited to be subject to a viable extraction. The Sandgate Formation has not been exploited in Kent in the past and is also a small part of the overall mineral bearing land in the application area. In relation to the Hythe Formation (Kentish Ragstone), the bore hole results indicate that this part of the Hythe Formation is not likely to yield an economic deposit.

6.173 The County Council as Minerals and Waste Planning Authority has reviewed the application and has raised no land-won minerals or waste management capacity safeguarding objections

6.174 As such, given these issues with the mineral resource on site and lack of objections from KCC Minerals and Waste, exemption criteria 1 of policy DM7 can be applied to this application. The development therefore accords with policies DM7 and CSM5 of the KMWLP and paragraph 218 of the NPPF.

Other issues raised by public comments

6.175 Concerns have been raised in relation to difficulty viewing public and consultee comments on the website due to the new IT system. Senior management are aware of this issue in relation to applications generally and are working with the software provider to identify a solution.

6.176 Comments have raised questions as to why the 150 homes maybe acceptable, when Darcy Court was difficult to obtain permission for. This can be explained by how each application has to be assessed on its own merits and by how Darcy Court was subject to different planning considerations and was assessed under a different planning policy context.

6.177 It has been stated that insufficient community engagement was undertaken. The application as submitted includes a Statement of Community Involvement, which shows that Gladman consulted the local community prior to the planning application was submitted. It shows that views were taken account of in developing the development proposals for the site. It is therefore considered that an acceptable level of community engagement has been undertaken.

6.178 Queries have been raised about the site being within an area proposed as a green belt extension in the withdrawn Local Plan. This Local Plan was withdrawn and as such holds no weight in the consideration of the current application. It is also unreasonable to speculate how the new Local Plan will consider the application site. The application must be assessed in relation to the NPPF, and policies still considered up-to-date in the current Local Development Framework.

6.179 It has been stated that the consultation is invalid as no closing date was published on the website. This is however not a requirement. It is worth noting that all relevant parties contacted directly, alongside the press and site notices included a consultation expiry date.

6.180 Concerns regarding sinkholes are noted due to the Hythe Formation which covers much of the site. The Hythe formation covers much of the locality and the application site has not been subject to any recorded sinkholes, therefore it is currently not a valid reason to withhold planning permission.

- 6.181 Queries have been raised regarding the validity of information detailed within technical reports such as highways reports, planning statement, etc. Statutory consultees have raised no objection to the submitted information and the Council has no information on the contrary, and therefore the Council must assess the application based upon the information currently available.
- 6.182 Matters of overlooking and privacy will be dealt with at the reserved matters stage should planning permission be granted. They cannot be assessed currently as no plans of the housing layout have been provided. However, this is not expected to prove a problem as there is sufficient space on site to ensure adequate separation distances.
- 6.183 Questions have been made as to why there is a lack of information with this application. The application does not include detailed plans as this is an outline application, with detailed plans being submitted under the subsequent reserved matters application should planning permission be granted.
- 6.184 Queries/concerns about land ownership, loss of a view, reduction in property value and impact of construction work are not [material planning considerations](#) and as such have no bearing upon the acceptability of the current application.
- 6.185 All other issues raised by public comments are considered to be addressed either in the main body of the officer report, or dealt with by planning conditions, contributions and informatives.

Developer contributions

- 6.186 Regulation 122 of the CIL Regulations (2010) set out the statutory framework for seeking planning obligations and states that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:
- “(a) necessary to make the development acceptable in planning terms;*
- (b) directly related to the development; and*
- (c) fairly and reasonably related in scale and kind to the development”*
- 6.187 Paragraph 57 of the NPPF reflects this statutory requirement.
- 6.188 Policy CP17 of the TMBCS details that affordable housing provision will be sought at a level of 40% of the number of dwellings proposed.
- 6.189 In relation to affordable housing, paragraph 66 of the NPPF details that:
- “Where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership, unless this would exceed the level of*

affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups...”

6.190 Policy OS3 of the MDE DPD explains that on all residential developments of 5 units or above (net), there will be a requirement for open space provision in accordance with the quantitative standards and sequential approach set out in the policy annex. Where it is impractical or inappropriate to provide open space on-site, off-site provision or a financial contribution towards such provision or enhancements to existing provision shall be sought in accordance with the policy annex. Any new on-site or off-site provision will be required to be located, where feasible, where it can provide a connection to the network of existing open spaces and wildlife corridors. Appropriate measures the lay out the land and for maintenance shall be sought.

6.191 In relation to public rights of way, paragraph 104 of the NPPF details that:

“Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.”

6.192 Paragraph 97 of the NPPF explains that to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

“a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;

b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;

c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs;

d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and

e) ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.”

6.193 Policy CP25 of the TMBCS states that:

“1. Development will not be proposed in the LDF or permitted unless the service, transport and community infrastructure necessary to serve it is either available, or will be made available by the time it is needed. All development proposals must therefore either incorporate the infrastructure required as a result of the scheme, or make provision for financial contributions and/or land to secure such infrastructure or

service provision at the time it is needed, by means of conditions or a planning obligation.

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

6.194 The scheme proposes to provide 40% of the total number of dwellings as affordable housing and therefore accords with Policy CP17 of the TMBCS. This holds significant weight in favour of the development, being a key benefit of the scheme given the demonstrable need for affordable housing within the borough of Tonbridge and Malling. The approval of the specific size, type and tenure of affordable housing and implementation of the provision will be secured under the S106 agreement to ensure that the provision comes forward in a manner that reflects and meets local need, and accords with the Affordable Housing Supplementary Planning Document (SPD) and Affordable Housing Protocol.

6.195 KCC has advised that in order to mitigate the additional impact that the development would have on delivery of its education and community services, the payment of appropriate financial contributions is required, as follows:

- £838,078.50 towards Secondary education provision
- £717,895.50 towards the provision of land for Secondary education
- £83,974.50 towards Special Education Needs provision
- £5,131.50 towards Community Learning provision.
- £11,107.50 towards Integrated Children’s Services
- £9,394.50 towards enhancements and additional library book stock
- £27,132.00 towards Adult Social Care
- £8,170.50 towards waste and recycling provision within the borough.

6.196 I am satisfied that sufficient detail has been provided in all these respects to ensure the relevant statutory and policy tests have been met, and the contributions should be secured through the legal agreement.

6.197 KCC PROW and Access Service have requested contributions to the following:

- Restricted Byway MR118 - new surface overlay for 137m: £19,180
- Public Footpath MR117 - Mill Street to eastern red line boundary - 170m - repair tarmac section as necessary and surface to redline to provide improved surface: £13,600
- Public Footpath MR117 - western red line boundary to Broadwater Road - 220m & Broadwater Road to Lucks Hill (excluding tarmac section) - 200m - improve with crushed stone or similar to counter “boggy” surface and install new signage to aid wayfinding for new residents – aiding connectivity towards West Malling: £21,000
- PROW Management Fee of 10 % = £5,378

- TOTAL of £59,158

6.198 These developer contributions are considered reasonable and necessary to enable good pedestrian connectivity within the vicinity of the development and to mitigate for the increased use of the PROW network, in accordance with paragraph 104 of the NPPF.

6.199 NHS CCG have advised that due to the potential patient numbers a contribution of £129,600 towards refurbishment, reconfiguration and/or extension of Thornhills Medical Practice, West Malling Group Practice and Wateringbury Surgery and/or other healthcare premises covering the area of development or new premises for general practice or healthcare services provided in the community. Again, this requirement is considered to meet the necessary tests and should be secured within the final legal agreement.

6.200 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 (detailed more at the earlier open space section of this report);

- Parks and Gardens – path improvements at Leybourne Lakes Country Park
- Amenity Green Spaces – N/A as provided on-site
- Outdoor Sports Facilities – Clare Park, East Malling
- Children’s and Young People’s Play Areas – N/A as provided on-site
- Natural and Semi-Natural Green Spaces – Enhancement of woodland at Winterfield Lane East Malling

6.201 The final layout and landscape plan is a reserved matter and therefore final open space contributions cannot be applied at this stage. Appropriate wording shall be included in the legal agreement to ensure that any open space deficiencies in the finalised scheme shall be sought through off-site contributions, in accordance with policy OS3.

6.202 TMBC holds a list of Parish Council projects which involve the provision of local infrastructure. For the area around East Malling, it sets-out £30,000 is required for the installation of shutters on East Malling Village Hall, New Road to prevent issues of vandalism that have been experienced recently. The applicant has confirmed that they are willing to contribute £30,000 towards these shutters. This is considered to be necessary and reasonably required in relation to the development as it shall be the village hall serving the Parish which the site sits within, with the funding required in order to safeguard this community facility to be used by the residents of the new development (paragraph 97 of the NPPF). This is a substantial benefit of the scheme, contributing towards local community facilities, used by both the new and existing residents of East Malling.

6.203 The submission details that the development shall deliver a biodiversity net gain, as detailed above in the section relating to biodiversity and trees. In summary, the currently submitted details require areas of clarification and full details cannot be provided given the outline nature of the application. As such, biodiversity net gain details will be secured via planning condition. To ensure ongoing monitoring, it will be essential to include biodiversity net gain monitoring and a fee for this within the legal agreement. This is directly related to the development, necessary to accord with paragraph 180d) of the NPPF and fairly and reasonably related in scale and kind to the development.

Planning balance and conclusions

6.204 The presumption in favour of sustainable development as set out at paragraph 11 (d) of the NPPF applies in this instance. The test in this case is whether or not there are any adverse impacts of granting planning permission that would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

6.205 The proposed development would provide a policy compliant development of up to 150 residential dwellings at a time when the Borough does not have a 5-year land housing supply, with this development contributing significantly to meeting this need. It would also provide 40% affordable housing, contributing towards addressing a recognised need for affordable housing in the Borough. The development would deliver a wide-range of social, economic and environmental benefits as demonstrated in this report and further within the Planning Statement Addendum.

6.206 Overall, and for the reasons set out throughout this report, I consider that there would be no adverse impacts of granting planning permission for the development that would significantly and demonstrably outweigh the benefits that the development would bring, when assessed against the policies in the Framework taken as a whole.

6.207 It is therefore recommended that Outline Planning Permission be granted subject to the finalisation of a legal agreement securing various planning obligations as set out throughout this report and various planning conditions to ensure that the development comes forward in an acceptable, high quality fashion.

7. Recommendation:

7.1 **Grant Planning Permission** subject to the following:

7.2 The applicant to enter into a S106 agreement with Tonbridge and Malling Borough Council to pay developer contributions as set out in paragraphs 6.186 - 6.203 of this report

7.3 The following planning conditions:

Conditions:

Standard time/reserved matters/plans:

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

Reason: No such approval has been given.

2. Application for approval of the reserved matters for all phases and sub-phases shall be made to the Local Planning Authority before the expiration of 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 three years from the date of this permission, or before the expiration of two years from the date of approval of the reserved matters for that particular phase or sub-phase, 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:

- Site Location Plan CSA/5649/105 rev B
- Junction and Access Road Layout and Long Section 01-01 rev C
- Proposed Access Arrangements 1746/01 rev K

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 and in accordance with the National Planning Policy Framework 2023 (paragraph 140).

5. Applications for the approval of the reserved matters shall be in general conformity with:

- Design principles, use and amount, access (apart from the rural access from Clare Lane), street hierarchy and parking, green infrastructure and design, revised access landscaping, revised illustrative masterplan and revised development appearance details as detailed within the Design and Access Statement November 2024
- Development Framework Plan CSA/5649/104 rev L
- Building Heights Parameters Plan 5649/116
- Site Access and Indicative Landscape Strategy CSA/5649/109 rev C

- Air Quality Assessment GM11881 001 rev 3 August 2022
- Ecological Impact Assessment CSA/5649/04 rev A September 2023
- Socio-Economic Benefits Statement September 2023
- Heritage Statement P21-2112 rev 4 September 2023
- Preliminary Geo-Environmental Risk Assessment SHF.1132.263.GE.R.001.A rev A August 2021
- Agricultural Land Quality Assessment 2195/1 21 July 2023
- Landscape and Visual Impact Assessment September 2023
- Mineral Resource Assessment ST20463 0001 rev V1.2 September 2023
- Noise Impact Assessment GM11881 0002 rev V1.2 September 2023
- Planning and Affordable Housing Statement September 2023
- Planning & Affordable Housing Statement Addendum November 2024
- Travel Plan 1746/3/B August 2023
- Utilities Statement September 2023
- Transport Technical Note 19/12/23
- Transport Technical Note 11/01/24
- Arboricultural Assessment rev C June 2024
- BNG Metric July 2024
- Breeding Bird Survey Report CSA/5649/11 July 2024
- Ecology Letter 17 July 2024
- Flood Risk Assessment & Outline Drainage Strategy SHF.1132.263.HY.R.001.B April 2024
- Response to LLFA Comments 11 September 2024
- BNG Response Letter 3 October 2024
- Heritage Note 2 October 2024
- Landscape response 24 September 2024
- Outline Biodiversity Net Gain Plan EML-EVE-RP-1-03 rev 4 September 2024
- Reptile Mitigation Plan CSA/5649/115
- Transport Assessment 1746/2/E October 2024
- Transport Technical Note 22 October 2024

Reason: To ensure that the parameters of the development proposed are followed and in accordance with Tonbridge and Malling Borough Core Strategy 2007 policies CP1 and CP24, Managing Development and the Environment Development Plan Document 2010 policy SQ1 and the National Planning Policy Framework 2023 (paragraphs 135 and 140).

Design:

6. a) The details submitted in pursuance of Condition 1 shall include details of the proposed finished floor levels, eaves and ridge levels of the dwellings and finished ground levels (including roads, footpaths and landscaping) in relation to the existing ground levels of the site, adjoining land and highways, and any other changes proposed in the levels of the site.

b) The development in the relevant phase or sub-phase of the development shall thereafter be implemented in accordance with the approved details 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, the health of any trees or vegetation and in accordance with Tonbridge and Malling Borough Core Strategy 2007 policies CP1 and CP24, Managing Development and the Environment Development Plan Document 2010 policies SQ1, SQ8 and NE4 and the National Planning Policy Framework 2023 (paragraphs 114, 135 and 136).

7. a) No development within any phase or sub-phase above ground level of the development hereby approved shall take place until details of all materials to be used externally have been submitted to and approved in writing by the Local Planning Authority.

b) 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 area or the visual amenity of the locality and in accordance with Tonbridge and Malling Borough Core Strategy 2007 policies CP1 and CP24, Managing Development and the Environment Development Plan Document 2010 policy SQ1 and the National Planning Policy Framework 2023 (paragraph 135).

8. a) The details submitted in pursuance of Condition 1 shall show details of a scheme for the storage and screening of refuse.

b) No dwelling hereby approved shall be occupied until the storage and screening of refuse to serve that dwelling has been provided in accordance with the approved details and shall be retained at all times thereafter.

Reason: To facilitate the collection of refuse and preserve visual amenity and in accordance with Tonbridge and Malling Borough Core Strategy 2007 policies CP1 and CP24, Managing Development and the Environment Development Plan Document 2010 policy SQ1 and the National Planning Policy Framework 2023 (paragraph 135).

Landscaping, open space & trees:

9. a) The details submitted in pursuance of Condition 1 shall include 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.

b) The development shall thereafter be implemented in accordance with the approved details.

Reason: To safeguard the health of existing trees which represent an important amenity feature and in accordance with Managing Development and the Environment Development Plan Document 2010 policies SQ1 and NE4 and the National Planning Policy Framework 2023 (paragraphs 135 and 136).

10. a) The details submitted in pursuance of Condition 1 shall include a scheme of hard and soft landscaping and boundary treatments, including details of existing trees to be retained and size, species/cultivar, planting heights, densities and positions of any soft landscaping.

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 within any phase or sub-phase, whichever is sooner.

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 and in accordance with Tonbridge and Malling Borough Core Strategy 2007 policies CP1 and CP24, Managing Development and the Environment Development Plan Document 2010 policies SQ1 and NE4 and the National Planning Policy Framework 2023 (paragraphs 135 and 136).

11. 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 of BS5837: 2012 (Trees in relation to design, demolition and construction – Recommendations) and a site specific arboricultural method statement detailing precautions to minimise damage to trees 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 and in accordance with Managing Development and the Environment Development Plan Document 2010 policies SQ1 and NE4 and the National Planning Policy Framework 2023 (paragraphs 135 and 136).

12. a) The details submitted in pursuance of Condition 1 shall include a detailed tree felling/pruning specification.
- b) All tree felling and pruning works shall be carried out in full accordance with the approved specifications under the reserved matters (condition 1) and in accordance with British Standard BS3998 (Tree work – Recommendations).

Reason: To safeguard the health of existing trees which represent an important amenity feature and in accordance with Managing Development and the Environment Development Plan Document 2010 policies SQ1 and NE4 and the National Planning Policy Framework 2023 (paragraphs 135 and 136).

13. a) No dwellings within any phase or sub-phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Landscape Management Plan for all landscaped areas, other than landscaping within the curtilage of new residential dwellinghouses, for a minimum period of 25 years has been submitted to and approved in writing by the Local Planning Authority.
- b) The Landscape Management Plan shall include details of long term design objectives, management responsibilities, maintenance schedules and replacement planting provisions for existing retained trees and any new soft landscaping to be planted as part of the approved landscaping scheme, other than landscaping within the curtilage of new residential dwellinghouses.
- c) The approved Landscape Management Plan shall be implemented in full in accordance with details approved under this condition.

Reason: To ensure a satisfactory appearance to the development and in accordance with Tonbridge and Malling Borough Core Strategy 2007 policies CP1 and CP24, Managing Development and the Environment Development Plan Document 2010 policies SQ1 and NE4 and the National Planning Policy Framework 2023 (paragraphs 135 and 136).

14. a) No dwellings within any phase or sub-phase of the development hereby permitted shall be occupied until full details of the open space to be provided on site (including amenity space, children's play areas and natural green spaces) within the development along with a timetable for provision and a scheme for future

management of the spaces have been submitted to and approved in writing by the Local Planning Authority. The details shall include any fencing and equipment to be installed.

b) The approved scheme shall be fully implemented in accordance with the timescale approved and shall be maintained and retained at all times thereafter.

Reason: To ensure that the development is appropriately served by open space in accordance with the requirements of Managing Development and the Environment Development Plan Document 2010 policies OS3, OS5 and OS6.

Highways/Transport/Parking:

15. a) The details submitted in pursuance of Condition 1 shall show land, reserved for parking.

b) No building hereby approved shall be occupied until the parking area to serve that building has been provided, surfaced and drained in accordance with the approved details. Thereafter, no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to the reserved vehicle parking area.

Reason: To ensure that adequate parking is provided, maintained and retained and in accordance with Managing Development and the Environment Development Plan Document 2010 policy SQ8 and the National Planning Policy Framework 2023 (paragraphs 114-116).

16. a) The details submitted in pursuance of Condition 1 shall include details of secure cycle storage to serve the development.

b) No building hereby approved shall be occupied until the cycle storage area to serve that building has been provided in accordance with the approved details. Thereafter it shall be retained in accordance with the approved details.

Reason: To ensure that cycle bays are provided and maintained in accordance with adopted standards and in accordance with Managing Development and the Environment Development Plan Document 2010 policy SQ8 and the National Planning Policy Framework 2023 (paragraphs 114-116).

17. No part of the development hereby approved shall be occupied prior to the completion of the highways works indicated on drawing number: 1746/01 Rev K titled 'Proposed Access Arrangement' being completed by the applicant via S278/S38 Agreements. The highways works shall be retained at all times thereafter.

Reason: To ensure appropriate delivery of highway improvements required for the development, to ensure the safe and free flow of traffic and in accordance with Managing Development and the Environment Development Plan Document 2010 policy SQ8 and the National Planning Policy Framework 2023 (paragraphs 114-116).

18. a) Prior to commencement of any works agreed under the S278 agreement, details of the following shall be submitted to and approved in writing by the Local Planning Authority in consultation with Kent County Council Highway Authority:
- the appearance and surfacing of the footpath along Clare Lane
 - lamp columns to be installed along Clare Lane
 - the no-dig construction technique (to include details of existing and proposed levels and any drainage), and any other techniques or protection measures to prevent/minimise damage to adjacent trees during construction of the path along the north side of Clare Lane
 - details of any mitigation measures to offset the impact of the proposed new footpath upon existing trees
- b) The works shall be implemented in accordance with the approved details.

Reason: In the interests of visual amenity, tree retention and to preserve the appearance of the Clare Park and Blacklands Conservation Area and in accordance with Tonbridge and Malling Borough Core Strategy 2007 policies CP1 and CP24, Managing Development and the Environment Development Plan Document 2010 policies SQ1, SQ3, NE4 and DC6, the National Planning Policy Framework 2023 (paragraphs 135, 136 and 201-209) and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

19. The use hereby permitted shall not be commenced, nor any building occupied, until the access road shown on the submitted plans (drawing number: Junction and Access Road Layout and Long Section 01-01 C) has been constructed. The access shall be retained at all times thereafter.

Reason: To ensure the safe and free flow of traffic, in the interests of visual amenity and in accordance with Tonbridge and Malling Borough Core Strategy 2007 policies CP1 and CP24, Managing Development and the Environment Development Plan Document 2010 policies SQ1, SQ8 and DC3, the National Planning Policy Framework 2023 (paragraphs 114-116, 135, 136 and 201-209) and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

20. The access shall not be used until the area of land within the vision splays shown on the submitted plans (drawing number: 1746/01 Rev K titled 'Proposed Access Arrangement'), with no obstructions over 0.6 metres above carriageway level within the splays, have been provided. The vision splays so created shall be retained at all times thereafter.

Reason: To ensure the safe and free flow of traffic and in accordance with Managing Development and the Environment Development Plan Document 2010 policy SQ8 and the National Planning Policy Framework 2023 (paragraphs 114-116).

21. a) No development shall take place within any phase or sub-phase of the development hereby approved until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The management arrangements to be submitted shall include (but not necessarily be limited to) the following:
- i. Routing of construction and delivery vehicles to / from site
 - ii. Parking and turning areas for construction and delivery vehicles and site personnel
 - iii. Timing of deliveries
 - iv. Permitted construction traffic arrival and departure times
 - v. Construction phasing
 - vi. Provision of wheel washing facilities prior to commencement of works on site and for the duration of the construction
 - vii. Temporary traffic management / signage
 - viii. Provision of construction vehicle loading/unloading facilities prior to commencement of work on site and for the duration of construction
 - ix. Provision of measures to prevent the discharge of surface water onto the highway
 - x. Management of all other construction related traffic
 - xi. The days of the week and hours of the day when the construction works will be limited to
 - xii. The controls on noise and dust arising from the site with reference to current guidance
 - xiii. Measures to ensure these are adhered to
 - xiv. 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.
- b) The development and all construction activity shall be undertaken in full compliance with the approved details.

Reason: In the interests of general amenity and highway safety and in accordance with Tonbridge and Malling Borough Core Strategy 2007 policy CP1 and Managing Development and the Environment Development Plan Document 2010 policy SQ8 and the National Planning Policy Framework 2023 (paragraphs 114-116).

22. a) No dwellings within any phase or sub-phase of the development hereby permitted shall be occupied until a comprehensive Travel Plan has been submitted to and approved in writing by the Local Planning Authority (in consultation with the Highway Authority for the M20 Motorway). The Travel Plan shall be prepared in line with prevailing policy and best practice and shall include as a minimum:

- the identification of targets for trip reduction and modal shift;
- the measures to be implemented to meet these targets including an accessibility strategy to specifically address the needs of residents with limited mobility requirements;
- the timetable/ phasing of the implementation of the Travel Plan measures shall be alongside occupation of the development and its operation thereafter;
- the mechanisms for monitoring and review;
- the mechanisms for reporting;
- the remedial measures to be applied in the event that targets are not met;
- the mechanisms to secure variations to the Travel Plan following monitoring and reviews

b) The development shall only be occupied in accordance with the approved Travel Plan which shall remain in perpetuity unless otherwise amended in accordance with a review to be agreed in writing by the Local Planning Authority in conjunction with the Highway Authority for the M20 motorway

Reason: In order to minimise the use of the private car, to promote the use of sustainable modes of transport and in accordance with Managing Development and the Environment Development Plan Document 2010 policy SQ8, the National Planning Policy Framework 2023 (paragraphs 74, 109, 108 and 114-116) and paragraph 40 of DfT Circular 01/2022.

23. a) No dwellings within any phase or sub-phase of the development hereby permitted shall be occupied until details of the method to ensure that the secondary access to the site will only be used by emergency vehicles has been submitted to and approved in writing by the Local Planning Authority.

b) The works shall be implemented in accordance with the approved details prior to the completion of the works on the site and shall thereafter be retained at all times.

Reason: In order to create a satisfactory access arrangement for the site and in accordance with Managing Development and the Environment Development Plan Document 2010 policy SQ8 and the National Planning Policy Framework 2023 (paragraphs 114-116).

24. a) The details submitted in pursuance of Condition 1 shall include a Public Rights of Way Management Scheme for the Public Right of Way within the site (MR117). The scheme shall include details of PROW management during construction (to cover any temporary closures or diversions) and details of to the proposed enhancements and improvements, including but not limited to surfacing, widths, signage and the access road crossing.

b) The Public Rights of Way Management Scheme and works to Public Right of Way MR117 shall be implemented in accordance with the approved details.

Reason: To protect and enhance the existing Public Right of Way MR117 and in accordance with Tonbridge and Malling Borough Core Strategy 2007 policy CP2 and the National Planning Policy Framework 2023 (paragraphs 104 and 114-116).

Drainage:

25. a) The details submitted in pursuance of Condition 1 shall include a detailed sustainable surface water drainage scheme for the site. The detailed drainage scheme shall be based upon the Enzygo Flood Risk Assessment & Outline Drainage Strategy Rev B dated April 2024 and their letter of 11th Sep 2024 in response to LLFA comments, and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

The detailed drainage scheme will also be required to demonstrate that any existing surface water flow paths can be accommodated and disposed of without increase to flood risk on or off site.

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

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

The drainage information shall also include a management and maintenance plan for the lifetime of the development and set-out the responsibilities of each party for the implementation of the SuDS scheme and a timetable for implementation

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

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water, to ensure that the development does not exacerbate the risk of on/off site flooding and in accordance with Managing Development and the Environment Development Plan Document 2010 policy CC3 and the National Planning Policy Framework 2023 (paragraphs 173 and 175).

26. No dwellings within any phase or sub-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 in writing by the Local Planning Authority. The Report shall demonstrate that the drainage system

constructed is consistent with that which was 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, to ensure that the development as constructed is compliant with and subsequently maintained and in accordance with Managing Development and the Environment Development Plan Document 2010 policy CC3 and the National Planning Policy Framework 2023 (paragraphs 173 and 175).

27. a) No development other than ground investigations or site survey works shall take place within any phase or sub-phase of the development hereby approved until details of foul water disposal have been submitted to and approved in writing by the Local Planning Authority.

b) The scheme shall be carried out in accordance with the approved details prior to first occupation of the development and retained thereafter.

Reason: To ensure that adequate sewage infrastructure is present in the interests of pollution prevention and in accordance with Managing Development and the Environment Development Plan Document 2010 policy SQ5 and the National Planning Policy Framework 2023 (paragraph 180).

Biodiversity:

28. a) The details submitted in pursuance of Condition 1 shall include a detailed ecological mitigation strategy. The detailed mitigation strategy shall be informed by updated surveys if required. The ecological mitigation strategy shall include the following:

- Preliminary Ecological Appraisal
- Recommended species surveys
- Overview of mitigation required
- Detailed methodology of mitigation works for each species group
- Details of how it will align with construction works
- Timings of works
- Plans showing any mitigation areas and retained habitats
- Details of how the mitigation areas and retained habitats will be protected
- Interim management plan to enhance and maintain the mitigation areas

b) The mitigation strategy shall be implemented in accordance with the approved details prior to first occupation of the development in the relevant phase or sub-phase and retained thereafter.

Reason: To ensure the protection of habitats and biodiversity and in accordance with Managing Development and the Environment Development Plan Document 2010 policies NE2, NE3 and NE4 and the National Planning Policy Framework 2023 (paragraphs 180 and 186).

29. a) The details submitted in pursuance of Condition 1 shall include a detailed lighting design plan for biodiversity. The plan shall show the details of the types of lighting, a plan showing the location of the lights, anticipated horizontal and vertical light spill and details of any dimming scheme to be implemented. The lighting plan shall take account of the Bat Conservation Trust's Guidance Note 8 Bats and artificial lighting in the UK.
- b) All external lighting shall be installed in accordance with the specifications and locations set out in the plan and shall be maintained thereafter.

Reason: To limit the impact of light pollution from artificial light on nature conservation and in accordance with Managing Development and the Environment Development Plan Document 2010 policies NE2, NE3 and NE4 and the National Planning Policy Framework 2023 (paragraphs 180 and 186).

30. a) No dwellings within any phase or sub-phase of the development hereby permitted shall be occupied until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. The LEMP shall include an overview of the habitats within the site, aims and objectives, management requirements to achieve the aims and objectives, rolling 5 year timetable of works, habitat plan of the site, blank plans of the site for site managers to annotate, details of who will implement the management and details of how it will be funded.
- b) The LEMP shall be implemented in accordance with the approved details.

Reason: To ensure the protection and enhancement of biodiversity and in accordance with Managing Development and the Environment Development Plan Document 2010 policies NE2, NE3 and NE4, the National Planning Policy Framework 2023 (paragraphs 180 and 186) and section 40 of the Natural Environment and Rural Communities Act 2006.

31. a) The details submitted in pursuance of Condition 1 shall include an ecological enhancement plan. It shall include details of ecological enhancement features to be integrated in to the buildings and landscaping areas. The plan must demonstrate that the site has been enhanced for all species groups recorded within the site during the Ecological Impact Assessment (CSA Environmental; September 2021) and the Breeding Birds Survey (CSA Environmental; 2024).

b) The ecological enhancement plan shall be implemented in accordance with the approved details and retained thereafter.

Reason: To ensure the protection and enhancement of biodiversity and in accordance with Managing Development and the Environment Development Plan Document 2010 policies NE2, NE3 and NE4, the National Planning Policy Framework 2023 (paragraphs 180 and 186) and section 40 of the Natural Environment and Rural Communities Act 2006.

32. a) The details submitted in pursuance of Condition 1 shall include a biodiversity gain plan and updated biodiversity metric.

b) The development shall be implemented in accordance with the approved details, with the enhancements maintained for at least 30 years after the development is completed.

Reason: To ensure the development provides measurable gains for biodiversity in accordance the National Planning Policy Framework 2023 (paragraph 180).

Archaeology:

33. No development shall take place within any phase or sub-phase of the development hereby approved until the applicant, or their agents or successors in title have secured:

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

b) 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 in writing by the Local Planning Authority;

c) programme of post excavation assessment and publication.

Reason: To ensure that features of archaeological interest are properly examined, recorded, reported and disseminated and in accordance with the National Planning Policy Framework 2023 (paragraph 200).

Contamination:

34. a) If during development work, significant deposits of made ground or indicators of potential contamination are discovered, the work shall cease until an investigation/remediation strategy has been agreed with the Local Planning Authority and it shall thereafter be implemented by the developer.

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

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

Reason: In the interests of amenity, public safety and human health and in accordance with the National Planning Policy Framework 2023 (paragraphs 180 and 189-191).

Noise:

35. a) No dwellings within any phase or sub-phase of the development hereby permitted shall be occupied until an updated noise report has been submitted to and approved in writing by the Local Planning Authority.

This report shall set-out the current noise climate at the site due to the close proximity of the London to Maidstone Railway line, with details of all train passes including that from freight and shall set-out how the following noise levels can be achieved:

(i) for gardens and other outdoor spaces, a desirable limit of 50dB LAeq,16-hour, and a maximum upper limit of 55dB LAeq,16- hour; and

(ii) internal noise levels no greater than 30dB LAeq, 8-hr (night) and 35dB LAeq, 16-hr (day) in bedrooms, 35dB LAeq, 16-hr (day) in living rooms and 40dB LAeq, 16-hr (day) in dining rooms/areas. These levels need to be achieved with windows at least partially open, unless satisfactory alternative means of ventilation is to be provided.

The report should also specifically detail any mitigation/attenuation measures needed to attain these noise levels.

b) The development shall be carried out in accordance with the approved details and thereafter retained and maintained at all times.

Reason: To safeguard the aural amenity of the occupiers of the dwellings hereby approved and in accordance with the Managing Development and the Environment Development Plan Document 2010 policy SQ6 and the National Planning Policy Framework 2023 (paragraphs 180 and 191).

Lighting:

36. a) No external lighting shall be installed in connection with the development hereby approved within any phase or sub-phase until such details have been submitted to and approved in writing by the Local Planning Authority

b) The external lighting works shall be carried out in strict accordance with those details and maintained and retained at all times thereafter.

Reason: In the interests of amenity and in accordance with Tonbridge and Malling Borough Core Strategy 2007 policies CP1 and CP24 and Managing Development and the Environment Development Plan Document 2010 policy SQ1.

Piling:

37. a) Prior to the commencement of any piling that is necessary for any building within any phase or sub-phase of the development, details of the piling techniques to be used for those buildings, together with details of any measures that are considered to be necessary to mitigate against noise disturbance and groundwater contamination shall be submitted to and approved in writing by the Local Planning Authority.
- b) The development shall be undertaken in accordance with the details so approved.

Reason: In order to prevent contamination of ground water, to protect the aural amenity of neighbouring residential properties and in accordance with the Managing Development and the Environment Development Plan Document 2010 policy SQ6 and the National Planning Policy Framework 2023 (paragraphs 180 and 191).

7.4 The following informatives:

Informatives:

1. When compiling the reserved matters submission(s) and detailed design of the site, the applicant should have due regard to the East Malling Village Design Statement.
2. Your attention is drawn to the comments available online by TMBC Waste Services in relation to the design and provision of refuse storage and collection.
3. The developer should consult Kent Police/Designing out Crime Officers (DOCO's) to address Crime Prevention Through Environmental Design and incorporate Secured By Design as appropriate.
4. The developer is recommended to follow Secured By Design guidance to address designing out crime to show a clear audit trail for Designing Out Crime and Crime Prevention and Community Safety. More details can be found in the consultee comment from Kent Police, available on the website.
5. Site security is required for the construction phase. There is a duty for the principal contractor "to take reasonable steps to prevent access by unauthorised persons to the construction site" under the Construction (Design and Management) Regulations 2007. The site security should incorporate plant, machinery, supplies, tools and other vehicles and be site specific to geography and site requirements.

6. In the interests of good neighbourliness, the hours of construction, including deliveries, 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.
7. 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.
8. The applicant should engage with the Malling School regarding tree planting within the school grounds in advance of the submission of details pursuant to condition 18.
9. Local Planning Authority (LPA) permission does not convey any approval to carry out works on or affecting the public highway. Any changes to or affecting the public highway in Kent require the formal agreement of the Highway Authority, Kent County Council (KCC), and it should not be assumed that this will be a given because LPA planning permission has been granted.
10. Anyone considering works which may affect the public highway, including any highway-owned street furniture or landscape assets such as grass, shrubs and trees, is advised to engage with KCC Highways and Transportation at an early stage in the design process.
11. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the public highway. Some of this highway land is owned by KCC whilst some is owned by third party owners. Irrespective of the ownership, this land may have highway rights over the topsoil.
12. Works on private land may also affect the public highway. These include works to retaining walls which support the highway or land above the highway, and to signs or other structures which project over the highway. Such works also require the approval of the Highway Authority.
13. KCC has introduced a pre-application advice service in addition to a full formal technical approval process for new or altered highway assets, with the aim of improving future maintainability. Further details are available on the website below: <https://www.kent.gov.uk/roads-and-travel/highway-permits-andlicences/highways-permissionsand-technical-guidance>.
14. It is the responsibility of the applicant to ensure that before development commences, all necessary highway approvals and consents have been obtained, and that the limits of the highway boundary have been clearly established, since failure to do so may result in enforcement action being taken by the Highway Authority. The applicant must ensure that the details shown on the approved plans agree in every aspect with those approved under the relevant legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

15. Guidance for applicants, including information about how to clarify the highway boundary and links to application forms for vehicular crossings and other highway matters, may be found on KCC's website: <https://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/highways-permissionsand-technical-guidance>. Alternatively, KCC Highways and Transportation may be contacted by telephone: 03000 418181
16. All Electric Vehicle chargers provided for residential properties should be provided to Mode 3 standard (providing a 7kw output) and SMART (enabling Wifi connection). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list: <https://www.gov.uk/government/publications/electric-vehicle-homecharge-scheme-approved-chargepoint-model-list>
17. Fire Service access and facility provisions are a requirement under B5 of the Building Regulations 2010 and must be complied with to the satisfaction of the Building Control Authority. A full plans submission should be made to the relevant building control body who have a statutory obligation to consult with the Fire and Rescue Service.
18. The applicant is advised to engage with Kent County Council's Public Rights of Way and Access Service to ensure there will be a "smooth" transition from within site to offsite.
19. Due to the close proximity of the proposed works to Network Rail's land and the operational railway, the developer is advised to follow Network Rail's 'Asset Protection Informatives for works in close proximity to Network Rail's Infrastructure' and to engage with Network Rail's Asset Protection and Optimisation (ASPRO) team prior to works commencing.
20. The applicant is advised that the occupation of the development should be phased and implemented to align with the delivery by Southern Water of any foul sewerage network reinforcement required, to ensure that adequate wastewater network capacity is available to adequately drain the development.
21. Southern Water can facilitate surface water run off disposal (5 l/s at manhole reference TQ69575353) to service the proposed development. Southern Water requires a formal application for a connection to the public surface water sewer to be made by the applicant or developer. To make an application visit Southern Water's Get Connected service: <https://developerservices.southernwater.co.uk/> Reference should also be made to the New Connections Charging Arrangements documents: <https://www.southernwater.co.uk/developing-building/connection-charging-arrangements>
22. Under certain circumstances SuDS will be adopted by Southern Water should this be requested by the developer. Where SuDS form part of a continuous sewer system, and are not an isolated end of pipe SuDS component, adoption will be

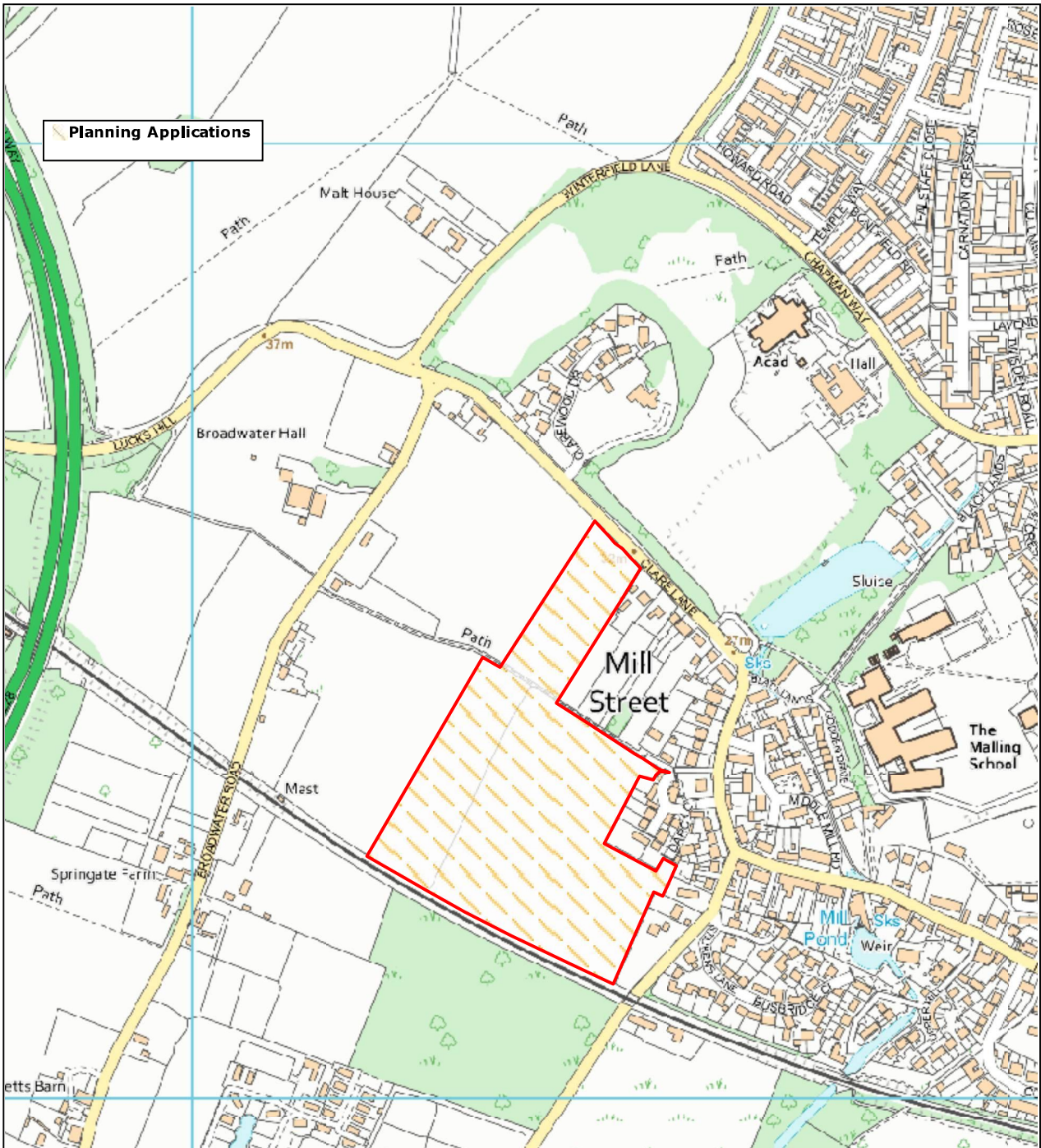
considered if such systems comply with the latest Design and Construction Guidance (Appendix C) and CIRIA guidance available at:

<https://www.water.org.uk/sewerage-sector-guidance-approved-documents>

<https://ciria.org/ItemDetail?iProductCode=C753F&Category=FREEPUBS>

23. 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.
24. In relation to the discharge of water from the site access road, which falls to the north and away from the main basin, it is recommended the following hierarchy is used when determining the final drainage strategy for this section of the site:
1. Have this area directly infiltrate
 2. Drain to surface water sewer
 3. Connect to Highway drainage subject to adoption of the below ground drainage.
- Please note any connection / outfall into assets under the control of the highway authority can only do so by entering into a s.115 agreement between the Highway Authority and Statutory Sewerage Undertaker under the Water Industry Act 1991. For this to be possible, the on-site drainage networks must be adopted by a Statutory Sewerage Undertaker - connections from privately maintained drainage systems are not accepted. The developer must demonstrate that the highway drainage system discharges via a positive outfall (i.e. into a watercourse or public sewer) and that the proposed flows do not result in an increased flood risk to the public highway or elsewhere. Any necessary upgrades to the drainage network will be the developer's responsibility to deliver prior to any discharge of surface water taking place. Please contact drainageta@kent.gov.uk with any queries or for further information.

Contact: Andrew Longman



Planning Applications 23/03060

Scale: 1:5000



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Date: 21/11/2024 15:23

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West Malling

TM/24/00927/PA

East Malling West Malling
And Offham

Location: ROTARY HOUSE NORMAN ROAD WEST MALLING ME19 6RL

Proposal: Proposed change of use from an existing community centre to a nursery with associated parking and landscaping

Go to: [Recommendation](#)

1. Description of Proposal:

- 1.1 Permission is sought to change the use of the building from a community centre to a nursery with associated parking and landscaping. It is understood that the last use of the premises was as an Age UK day care centre, which ceased to operate around 5 years ago.
- 1.2 The nursery will accommodate 30 children with seven members of staff. It has been indicated that it is likely to take a year to reach these figures. The opening hours will be 7am-7pm Monday-Friday. The existing parking spaces to the eastern side of the building will be retained in connection with the nursery.
- 1.3 In support of the application, it is stated that the KCC Childcare Sufficiency Assessment (2023) identifies West Malling as currently having an indicative deficit of 160 childcare spaces for 0-4 year olds. This is considered to be a significant deficit in the number of spaces available when compared to the needs of the area. The applicant's agent believes this demonstrates that there is an identified need for nursery accommodation.
- 1.4 A second application TM/24/00673 remains under consideration in respect of signage for the proposed nursery. The department is aware that the signage is in place but the application remains on hold pending the outcome of the application for the change of use.

2. Reason for reporting to Committee:

- 2.1 The application has been called to committee at the request of Cllr Roud for the following reasons:
 - Planning history of the site.
 - Building is protected from loss as a community building under the NPPF and TMBC Policies. It has also been successfully listed twice as an asset of Community Value.
 - Highway safety and parking Issues.

- The site lies extremely close to West Malling Primary School and is also located on a busy very narrow road adjacent to the junction with Offham Road.
- The effect on the Green Belt and the Countryside status.
- The impact of a commercial building in a residential area.
- Effect on Heritage assets, such as the Historic County Cricket Ground and the West Malling Conservation Area.
- Site is outside of the built-up confines of West Malling.

2. The Site:

- 2.1 The application relates to a single storey flat roofed building set on the northern side of Norman Road and outside the settlement confines, as defined on the Local Plan map. The site lies within the West Malling Conservation Area and the Green Belt. To the west and south are the residential properties of Norman and Offham Roads, whilst to the north is the West Malling Cricket Ground (understood to be the location of the first recorded cricket match). To the east are bungalows within County Grove. Behind these properties is West Malling Church of England Primary School. A short walk east along West Street is the High Street area of West Malling.
- 2.2 The building comprises a number of separate rooms with associated office, kitchen and WC facilities. The building is said to have a floor area of 289 square metres. The accommodation would be arranged to provide toddler and baby rooms and space for creative and messy play. Externally there is an amenity area enclosed by a brick wall and more recent fencing. On the eastern side are 5 designated parking spaces, at right angles to the road. There was formerly a protected tree to the front of the site but this has previously been removed following the submission of an application.

3. Planning History (relevant):

24/00673/PA

- Application remains under consideration

Retrospective Advertisement consent for proposed signage in relation to the Precious Gems Nursery to be located on the main facade of the property

24/00460/PA -Application returned

Change of use from an existing community centre, to a nursery with associated parking and landscaping. To include internal alterations and a garden play area to the front of the building as well as a timber closeboard fence, metal railing and entrance gate to the southern boundary / front of the site

22/01714/FL

Refuse - 05 July 2023

Demolition of existing building and replacement of 4 no. 4 bedroom semi-detached dwellings with associated parking and landscaping

13/01464/FL

Application Not Proceeded With - 15 December 2014

Erection of a conservatory

12/02645/TPOC

Approved - 17 October 2012

Fell Sycamore with decay and die-back and replace on frontage with more suitable species

04/02762/TPOC

Grant With Conditions - 09 September 2004

Remove branch of one Sycamore growing close to roof and telephone cables; remove deadwood throughout the tree (TPO ref. 12.10.04)

98/02129/ORM

ORM approved - 07 May 1999

relocation of fire exit from the west elevation to the north elevation of the extension

96/01298/FL

Grant With Conditions - 28 October 1996

retention of existing day care centre

96/01057/FL

Grant With Conditions - 14 October 1996

extension to existing day care centre

95/50841/FL

Grant With Conditions - 10 October 1995

extensions to existing day care centre

93/01620/TP

Grant With Conditions - 26 March 1993

Trim one sycamore tree

90/10327/FUL

Grant With Conditions - 31 July 1990

Renewal of permission TM/85/449 for vehicular access and Day Care Centre for Elderly Persons Welfare.

85/10423/FUL

Refuse - 22 February 1985

Single storey building for use as day care centre for elderly persons including dining area, common room, office, lavatories and kitchen for temporary period of 5 years.

4. Consultees:

4.1 Parish Council: Have provided details which outlined how Rotary House previously operated and the range of services it provided. A total of 416 Day Care sessions were held over the period 2017/18 (the last year of opening). In summary the Parish Council states that there is currently a lack of older people services in the Malling area, as confirmed by the Chief Executive Officer of Age UK Maidstone. It is stated that demand for older people services is high, and that Age UK would be interested in working with the Parish Council to provide much needed services for senior age groups.

4.2 Further comments include:

- Five, not 6 parking spaces are available at the site as stated in the Planning Statement. Insufficient spaces for all staff involved. Tandem parking would not be a viable option as this would cause problems with the entrance to the primary school. Potential for conflict between all users of the access road to the side of the site.
- Potential total of 84 additional vehicle movements across the day leading to exhaust pollution.
- Potential highway hazards with parents stopping in the road at drop off collection times/ constructing double yellow lines and causing highway problems and displacement parking.
- Parking at the village hall, approximately 15 minutes walk away is not a realistic suggestion.
- Access from the west (via Sandy Lane) and the south (via Offham Road) would be along narrow rural roads.
- Loss of second vehicle access to the site may impact access for emergency services.
- State that the approach road and the use of the Rotary House site have been managed cooperatively so that all these community facilities are able to continue to function, by complementary opening and closing times. Change of use of Rotary House would result in loss of community control to a commercial operation to the detriment of the local amenity groups.

4.3 Neighbours: Total of 38 representations received.

- 8 representations received in **support** and following comments made:
- Need for additional local childcare places where there is a lack of availability locally and waiting lists. Essential facility for young families in the area.
- Convenient for those families who already have children at the primary school.
- Renovation work has improved the appearance of the building which had become an eyesore. The property is well suited to the proposed use.
- Nursery will be within walking distance for some families.
- The community centre use was lost 5 years ago.
- Benefit to employment, providing job opportunities and enabling parents to return to work.
- Street setting is utilitarian and associated works will not be visually harmful to the area.
- Re-use of the building is preferable to demolition or dereliction.

- 30 representations received raising **objections** as follows:
- Parking problems, conflicts and increased strain on availability of spaces in this already congested area. Inadequate number of on site spaces available to accommodate seven members of staff and ancillary employees such as caterers or cleaners.
- Vehicle access at the front of the site and off road parking spaces in front of the building have been lost through the construction of the boundary fence.
- No provision for on site drop off/pick up with potential for hazardous on street parking and congestion in the area. Double yellow lines/zigzag markings are present in the adjoining road and the site is located at a bottleneck.
- Potential for cars to be parked on KCC owned land with obstruction of the school entrance creating hazardous situation for children. Parents rarely stick to designated drop off/pick up times.
- Applicants reference to use of unrestricted parking spaces in the village hall is inaccurate as these are restricted to users of the Village Hall, tennis courts and the adjoining recreation ground.
- Increased number of car journeys compared to use of minibus to bring customers to the former community centre.
- Drop off/pick up times will clash with those attending breakfast/after school clubs at primary school and those using the cricket club and field.
- The proposal involves a change from a community use to a commercial business use. There are already other nursery facilities nearby including two at Kings Hill, two in East Malling, two in West Malling and one at the school site. The demand for older age services is greater than that for nursery places.
- The building was designated as a community centre for use by older age groups to provide friendship and combat loneliness. There is still a demand for these facilities. Would prefer the building to be retained for use as community centre for senior age groups or as a medical centre.
- Reference made to the refusal of the previous application for 4 houses with one of the reasons being the loss of the community centre.
- Applicants have not provided details of the lack of need for a community centre or of any alternative provision for day care for the elderly. There is a greater need for elderly service facilities than for childcare places.
- Applicants have not provided details of any enhancements of the building.
- Objection to retrospective applications for the nursery, associated works and advertisements as a tactic to put pressure to recommend approval.

- The recently constructed fence is visually harmful to the area, having a detrimental impact on the Green Belt, Conservation Area and heritage assets of Cricket Ground.
- Building is a designated Asset of Community Value.
- Associated light and noise pollution through the introduction of a commercial use in a residential area.
- A mechanism should be put in place, if permission is granted, stating that the applicants should make a donation to a local club or charitable organisation that would benefit the community.
- Site could be sold on the open market for development.

4.4 Environmental Health: Initial comments: Queried the proposed finished surface for the nursery amenity area. Noted that it is currently hardstanding but due to the high risk nature for young children, if it is to be converted to soft landscaping, further information regarding the soils to be used may be needed.

4.5 Further comments: Confirmed no formal comments or objections.

4.6 With regard to air quality the following observations are made: "Norman Road is not a very busy road, so it won't have anywhere near the AQ issues of the A20. The nearby school had one of our short-term AQ monitors up recently and there were no AQ concerns."

4.7 KCC Highways: *"I note that the proposal is a change of use from community centre to nursery, with the existing 5 parking spaces retained and no new on-site parking provision proposed (as confirmed in the applicant's application form). Having reviewed the submission I note the absence of a Transport Statement (TS) to assess the likely impact of the development in highway terms; however, it must be acknowledged that the site has an existing lawful use which would inevitably generate a degree of traffic. Therefore, if TMBC were so minded they could ask the applicant to provide a TS."*

4.8 *It is likely that the traffic profile of the two uses will be different, with a nursery generating daily movements, particularly during the AM Peak and 16:00-18:00 period; whereas a community centre in all likelihood would be used less frequently depending on how well it is utilised by the local community. In terms of parking specifically I note that many of the streets listed in the objections below are subject to extensive on street parking controls, which in theory should be subject to patrols by your enforcement officers and act as a deterrent to parking that could be hazardous to the safe or free flow of traffic. Therefore, on balance I do not believe a highway-based objection relating to parking would be sustainable at an appeal situation, particularly given how KCC's standards for the proposed use are a maximum, rather than minimum, standard."*

4.9 The Highways Engineer also noted:

4.10 *Once planning approval for any development has been granted by the LPA, it is the responsibility of the applicant to ensure that before development commences, all necessary highway approvals and consents have been obtained, and that the limits of the highway boundary have been clearly established, since failure to do so may result in enforcement action being taken by the Highway Authority.*

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

4.12 In response to the submission of the Transport Statement, the following was received 7.8.2024:

4.13 *"I can confirm that the highway authority are satisfied that the Transport Statement (TS) demonstrates that the proposals will not impact upon the public highway in an unacceptable way and therefore raise no objection."*

4.14 Landscape Officer: "Notes the site lies in a Conservation Area but that very little landscaping details have been provided. A green area identified within the red line area as soft landscaping does not include details about species of vegetation. Also notes that prior to this application some vegetation was removed including tree saplings and that a new front boundary fence has been erected.

4.15 The Landscape Officer identified that there is some opportunity for limited planting at the site which could help to soften the built form and contribute positively to/enhance the character and appearance of the Conservation Area. A landscaping condition can be imposed on any grant of consent to take advantage of an opportunity to enhance the visual appearance of the scheme."

4.16 Policy, Scrutiny & Communities Manager: Confirmed protected period for Asset of Community Value ends March 2025. The Parish Council did express an interest to be a potential bidder, which meant the 6 month moratorium kicked in, but not aware that anything progressed further.

5. Determining Issues:

5.1 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning decisions must be taken in accordance with the 'development plan' unless material considerations indicate otherwise. The requirements of the National Planning Policy Framework are a significant material consideration in this regard.

Policy Context

5.2 The relevant policy considerations are as follows:

Tonbridge & Malling Borough Core Strategy (2007) policies (CP1 Sustainable Development), CP2 (Sustainable transport), CP3 (development in the Green Belt), CP12 (development within the confines), CP14 (development in the countryside), CP24 (Achieving a High Quality Environment), CP26 (community services)

5.3 Policy CP1 outlines the context for determining applications and the need for new development to result in a high quality sustainable environment which will be balanced against the need to protect and enhance the natural and built environment.

5.4 Policy CP2 states that development that is likely to generate a significant number of trips should be well located relative to transport routes, minimise the need to travel and make use of sustainable travel methods.

5.5 Policy CP3 identifies that National Green Belt policy will be applied where identified on the Local Plan map and will only be permitted if it is justified by very special circumstances.

5.6 Policy CP12 includes reference to conversions and changes of use being permitted within the confines of rural settlements, including West Malling.

5.7 Policy CP14 restricts development in the countryside to certain categories. Where development in the countryside is justified, the preference will be for re-use or redevelopment of existing buildings.

5.8 Policy CP24 states that all development must be well designed and of high quality in terms of detailing, scale, layout and appearance with the use of appropriate materials to respect the site and its surroundings.

5.9 Policy CP26 states that:

1. The Council will safeguard land required for the provision of services to meet existing and future community needs, as identified by service providers.

2. Land required for the implementation of transport schemes approved by Government or adopted by Kent County Council as Highway Authority or other schemes that are necessary to support the development strategy will be safeguarded from prejudicial development.

3. Proposals for development that would result in the loss in whole or part of sites and premises currently or last used for the provision of community services or recreation, leisure or cultural facilities will only be proposed in the LDF or otherwise permitted if:

(a) an alternative facility of equivalent or better quality and scale to meet identified need is either available, or will be satisfactorily provided at an equally accessible location; or

(b) a significant enhancement to the nature and quality of an existing facility will result from the development of part of that facility; or

(c) the applicant has proved, 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.

5.10 Managing Development and the Environment DPD (2010) (SQ1 Landscape and Townscape Protection and Enhancement) and SQ8 (highway safety). Policy SQ1 states that all new development should protect, conserve and where possible, enhance the character and local distinctiveness of the area including its historical and architectural interest. Policy SQ8 states that development proposals will only be permitted where they would not significantly harm highway safety and where traffic generated by the development can adequately be served by the highway network and should comply with parking standards.

National Planning Policy Framework 2023

5.11 Relevant paragraphs include 7, 8, 11, 39, 88, 97, 115, 131, 135, 142, 152-154, 180, 195, 200, 201, 203, 205, 206, 207, 208.

5.12 Paragraph 39 encourages early engagement which has significant potential to improve the efficiency and effectiveness of the planning application system for all parties.

5.13 Paragraph 88 a) and d) relates to the need to support a prosperous rural economy and states: *“Planning policies and decisions should enable:*
a) *the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed, beautiful new buildings;*
d) *the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.”*

5.14 Paragraph 97a) relates to the need to promote healthy and safe communities and states: *“Planning policies and decisions should aim to achieve healthy, inclusive and safe places and beautiful buildings which:*
a) *promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages.”*

5.15 Paragraph 115 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.”*

5.16 Paragraph 135 of the NPPF seeks to ensure that decisions result in developments which are visually attractive as a result of good architecture, and are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.

5.17 Paragraph 142 states: The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.”

- 5.18 Paragraphs 152-154 concern development in the Green Belt and identify that inappropriate development is by definition harmful to openness and should not be approved except in very special circumstances.
- 5.19 Paragraph 180 concerns the need to conserve and enhance the natural environment.
- 5.20 Paragraphs 195, 200, 201, 203, 205, 206, 207, 208 identify the need to address the impact of development on heritage assets and whether any potential harm amounts to substantial or less than substantial harm to its significance.
- 5.21 Unfortunately a pre-application advice submission, as recommended by paragraph 39 of the NPPF was not received in relation to the proposals for this site and the department is aware that some works have taken place prior to determination. As usual, any works carried out without the benefit of planning permission are entirely at the applicant's own risk.
- 5.22 The key considerations with this application are the impact of the proposed change of use and associated works on the residential amenities of the occupants of the area and highway matters. Other considerations are the visual impact on the character of the Conservation Area and the openness of the Green Belt. The designation of the building as an ACV is also a factor to be considered.

Planning History

- 5.23 This site has been the subject of several applications over the years, most recently with TM/22/01714 to demolish the community centre and erect 4 houses. This application was refused for various reasons including inappropriate development in the Green Belt, loss without justification of a community facility, failure of the development to respect the scale of local development, harmful relationship to the Conservation Area, highway safety matters and conflict with users of the cricket ground and playing fields.
- 5.24 These matters are addressed in the following review of the impact of the current proposal in relation to the policy context and bearing in mind that the application is for a change of use rather than new built development.

Impact on residential amenity

- 5.25 The application site lies in a mixed-use area with residential properties close by as well as the primary school and the playing fields, with various associated recreational activities. The commercial part of West Malling is nearby around the High Street area. The roads in the vicinity have time limited parking restrictions and as a result there is frequent vehicle activity throughout the day with visitors parking and walking to the shops and services. With the existing primary school and those using the playing fields for sport or general exercise, this is an area of frequent pedestrian and vehicle movements.
- 5.26 The application has been carefully considered having regard to the amenities of occupants of neighbouring houses. It has been indicated that the nursery would

accommodate 30 children and would be open between 7am and 7pm Monday - Friday with around 7 members of staff. Drop off and pick up times are to be staggered with children arriving between 0700-0800 with collections at 1300,1800 and 1900.

- 5.27 The introduction of a nursery for 30 children will inevitably lead to comings and goings with staff arriving/departing and children being dropped off/picked up. There will also be deliveries, potentially for supplies and meals, as well as cleaners and maintenance vehicles at times. Whilst it may not be possible to limit drop off and pick up to exact times these are likely to peak early in the morning and at the end of the afternoon or early evening depending on parents work commitments. It is acknowledged therefore that there will be general activity associated with the operation of the nursery including the outside amenity area.
- 5.28 It is recognised that Rotary House has not been in use for a number of years as a community facility for older age groups, but when it did operate there were associated vehicle movements in the form of mini bus activity collecting and returning residents from their homes. In the event that a day care centre were to start up at the premises again, there would also be associated vehicle activity with staff, cleaners, food delivery and maintenance vehicles visiting the site in a similar way. A level of general associated activity has therefore been accepted at Rotary House and was established at this site for many years.
- 5.29 It is considered that whilst there are some differences between how the community centre and the proposed nursery would operate, the associated level of activity would not be so significantly different or at such a high level in relation to the general business of the area as to cause undue harm by reason of noise or disturbance. The proposed change of use is therefore considered acceptable with regard to any impact on existing residential amenities and having regard to the above policy context and the spirit of NPPF paragraph 88a).

Highway Matters

- 5.30 Under paragraph 115 the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 5.31 Following submission of the application the applicant's agent provided follow up information in a Transport Statement. The Statement indicates that the parking places to the side of the building are available for staff or drop off. It has also been stated that there would be the option for tandem parking but this would need to take place on land under the applicants' ownership without obstruction of other accesses or the public highway.
- 5.32 With regard to the need for parking in association with the proposed use, the agent stated that there are also 36 unrestricted parking spaces in the village hall which could be available for staff to use. Use of spaces at the Village Hall premises would however be a private matter between the parties concerned.

- 5.33 To fully assess the highway impact of this development proposal, it is essential to understand the level of vehicle activity associated with the last use of the building and the current proposal. The KCC Highways Engineer has recognised that there are differences between the last and proposed uses with peaks of activity at certain times of the day. Reference has been made to the local on street parking restrictions which would be enforceable in the area.
- 5.34 The KCC Highways Engineer has considered the submitted Transport Statement and confirmed that the proposals will not impact upon the public highway in an unacceptable way and raises no objection to the change of use. On balance the Highways Engineer does not believe a highway-based objection relating to parking would be sustainable at an appeal situation.
- 5.35 Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. In absence of the substantive evidence to suggest otherwise and any objection from the Highway Authority, it is not considered that the perceived impacts on highway safety and parking are so significant as to warrant a reason for refusal with regard to the paragraph referred to earlier.

Design and visual impact on the Conservation Area

- 5.36 Other than the installation of timber fencing along Norman Road, there would be no external changes to the building and to the site. The visual impact of the proposal is considered having regard to the location close to but outside the settlement confines and within the Conservation Area. The Conservation Area extends from the historic High Street centre of West Malling to include the Old County Ground and sports pavilion to the north and includes the application building.
- 5.37 The application relates to a single storey low key flat roofed standalone building on the edge of the historic cricket ground. It is seen from the south against the backdrop of the hills in the distance but is opposite residential properties along the southern side of the road. The appearance of the site has been altered in recent times with the erection of a panel fence with trellis around the front boundary and installation of yellow lettering along the fascia to show the name of the proposed nursery. As mentioned above the advertisement application for the signage remains on hold at the present time.
- 5.38 In this instance the main heritage consideration is the impact of the external works on the character of the Conservation Area. Rotary House has no immediately adjacent neighbouring properties and is not considered to be of a high standard of design. Whilst it does not make a particularly positive contribution to the character of the Conservation Area, it is single storey and has a low key appearance. The introduction of fencing/trellis around part of the site to enclose the proposed nursery play area is not thought to result in greater harm to the visual amenities of the wider street scene, where a variety of boundary treatments including brick wall, picket fencing and hedging already exist.

- 5.39 With regard to the heritage assets of this part of the Conservation Area it is noted that there is a general open aspect to the north as the built form adjoins the cricket ground. The introduction of the panel fencing with trellis introduces a more modern feature but the structure is well made and of a similar shade to the brick of the application building.
- 5.40 Due consideration has also been given to the West Malling Conservation Area Appraisal when assessing the heritage impact of this development proposal. The site is identified in the Appraisal as being part of Sub-Area C; the western part of the Conservation Area predominately residential in character.
- 5.41 In relation to Norman Road where the site sits, the Appraisal highlights that “there are several modern single storey homes to the north side of the road where it joins Norman Road. There is an attractive lack of formal kerbstones to the front boundaries along the south side of the road and informal hedges and small grass verges are more evident. There are also extensive vistas in all directions from the open space used as The Old County Ground in Norman Road. However, this important open space would continue to benefit from some environmental improvements.”
- 5.42 The new fencing is roughly of the same height as the brick wall currently presented on site. Since it is set to the southern boundary behind the application building, there should be no harm to the vistas of The Old County Ground. The proposed fencing would reinforce the sense of enclosure, identified as being a contributing factor towards the significance of the Conservation Area in the Appraisal. Whilst it is a new structure it does not stand out as a harmful feature, nor does it detract from the appearance of Rotary House or the character of the Conservation Area.
- 5.43 In terms of the relevant NPPF paragraphs above, the change of use and associated works are considered to result in no harm to the significance of West Malling Conservation Area and general setting of the cricket ground within it. The proposal is considered acceptable in relation to the aims of policies CP24, SQ1 and paragraphs 135, 195 and 200-208 of the NPPF. In absence of any harm to designated heritage assets, no public benefits are required to be demonstrated for this development to be deemed acceptable in respect of paragraph 207 of the NPPF.

Loss of community centre/Asset of Community Value

- 5.44 Rotary House is designated an Asset of Community Value (ACV) as outlined under Section 90 of the Localism Act 2011. The procedure is summarised as follows. To be listed, a community group must nominate the property, and it must have been in recent use for a purpose that furthers community wellbeing with a realistic prospect of such use continuing. The Local Authority (LA) then has to decide whether to list the asset on their list of community value. In deciding whether to list, it is important to look at the actual primary use and if that use could continue in the future. If the landowner does not object to the listing then the land is added to the community value land list, maintained by the LA.
- 5.45 Any land designated as an ACV cannot be disposed of without first notifying the LA. The LA then notifies the community group that nominated it and publicises the

information about the disposal. The notification starts a moratorium period of 6 weeks during which the land can only be sold to a community interest group. If no such group expresses an interest in buying the land, an owner can dispose of the land at the end of the initial 6 week period.

- 5.46 If, however, a community group does express an interest in bidding for the site the full moratorium period of 6 months will apply. During this time the landowner cannot sell the land to any party other than the community interest group. There is no compulsion to sell to such a group, merely a restriction on selling to any other parties during the moratorium. After the moratorium period expires there is no restriction on to whom the asset may be sold or at what price. A landowner is under no obligation to accept a bid from a community interest group if disposing of their land. Designation as an ACV can therefore delay the disposal of land, but it will not prevent any sale for longer than 6 months.
- 5.47 In the case of Rotary House, TMBC received a nomination on 27.6.23 by West Malling Parish Council for Rotary House to become an ACV. Under Authority delegated to the Policy, Scrutiny and Communities Manager it was agreed on 25.7.2023 that Rotary House should be accepted as an ACV. (This was a re-nomination as a previous ACV status applied to the building, following a nomination from West Malling Parish Council in 2021. The first ACV status was removed when the previous owners sold the property, following the required moratorium period).
- 5.48 On 5.9.23 TMBC received an Intended Disposal Notice with the interim 6 week moratorium period ending on 17.10.2023. The Full 6 month Moratorium Period therefore ended on 5.3.2024 with the Protected Period due to end on 5.3.2025. The Protected Period is an 18 month period during which the owner of the premises is free to sell the asset without delay, provided a community asset group has not submitted a request and/or pursued it through to completion of purchase.
- 5.49 With regard to the current application the correct time frames have been followed in relation to the ACV procedures.
- 5.50 The change from a former community centre to a children's nursery is a key consideration in this application and has been assessed having regard to policy CP26. The applicant's agent argues that the proposed nursery will continue to provide a community facility albeit for a different age category. Representations received however have made reference to the loss of the community centre and the associated opportunity of being able to provide services for older age groups within Rotary House. The department is of course sympathetic to the need to provide services for older age groups in the interests of their wellbeing.
- 5.51 In the supporting text to policy CP26 it identifies that it is essential for a range of community services to be available and this can include schools and other educational provision. Paragraph 20(c) of the NPPF, similarly, defines community facilities as those, which include but are not limited to health, education and cultural infrastructure. Paragraph 88, again, reiterates, that community facilities may include "local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship. It is clear from the above that the terms "community facilities" in the context of both local and national planning policies encompasses a

broad range of uses, which may on occasions involve commercial activities and be subject to restricted access.

- 5.52 From a policy point of view a children nursery is considered as an educational provision, which the TMBCS in paragraph 6.4.12 describes as “community services”. With the current and proposed uses both being community services as defined in the TMBCS, the proposal is not considered to result in the loss in whole or part of sites and premises last used for the provision of community services. Accordingly, the restrictions set out in Part 3 of Policy CP26 are not engaged in this instance.
- 5.53 It follows that there is no requirement for the applicant to demonstrate the need for an alternative facility of better or equivalent quality and scale at an alternative location. The proposed nursery, despite a commercial operation, is considered to fall within the provision of educational services and as a result would not conflict with the aims of Policy CP26 of the TMBCS and Chapter 8 of the NPPF.

Impact on the Green Belt and countryside

- 5.54 The Green Belt covers the playing fields on the north side of Norman Road, the primary school and the application building. The application does not indicate any additional built form other than the timber fencing beyond the site boundaries and. In any case, the re-use of buildings of permanent and substantial construction could be deemed not inappropriate in the Green Belt. The timber fencing is considered an integral part of and incidental to the proposal for re-use of an existing building, which is not inappropriate in the Green Belt. Moreover, given the site is already occupied by a permanent structure and associated fixed surface infrastructure, it falls to be considered previously developed land as defined in Annex 2 of the NPPF, where limited infilling, partial or complete redevelopment could be appropriate, provided that it does not give rise to a greater impact on openness than existing.
- 5.55 The timber fencing is intended to replace the hedging and metal railing presented along Norman Road. Whilst partly higher than the boundary treatment intended to be replaced, the siting of the fencing in relation to its surroundings means there is no greater impact on openness, nor is there any conflict with the purposes of including the site within the Green Belt. The site is in a built-up area occupied by a building last used as an elderly day care centre. The fencing proposed would be viewed in the context of the building associated and the houses on the opposite side of the road. As such, the erection of fencing in the chosen location would not erode the sense of openness in both visual and spatial terms. No objections are raised in terms of the relevant Green Belt policies or paragraphs 142, 152-154 of the NPPF as outlined above.
- 5.56 Although the site does fall outside the settlement confine of West Malling where Policy CP14 of the TMBCS applies, it is viewed in the context of the West Malling identified as a Rural Service Centre by Policy CP12. The proposal seeks to re-use an existing building already presented in the countryside and to install other paraphernalia associated. The scale of development proposed is not considered to result in an adverse impact on the landscape character of countryside in this location, where there is already an established linear pattern of development extending from

within the confine of this Rural Service Centre. As such, the proposal accords with Policy CP14 of the TMBCS and Chapter 15 of the NPPF.

Landscaping

- 5.57 Rotary House stands on its own and contains very little planting either inside the fenced area or around the site. It was felt however that the site could benefit from some additional planting, although it is appreciated that space is tight and plant species will be limited having regard to use of the premises by very young children. Appropriate species may encourage wildlife and provide early learning opportunities regarding nature for children at the nursery.
- 5.58 The Tree Officer considers there is some opportunity for further soft landscape enhancements, albeit on a limited scale. Appropriate planting within the outdoor play area could be provided without making the outdoor space unsafe for children. There may also be the option to include some climbing plants in front of the new fence to soften its form. A landscaping condition is therefore recommended.

Biodiversity Net Gain

- 5.59 The submitted application form states that there are no protected or priority species present on site or important habitats and the applicants agent considers that the proposal falls below the BNG threshold for requirements.
- 5.60 The Planning Practice Guidance states that exemption may apply to development that does not impact a priority habitat and impacts less than 25sqm of non-priority habitat or 5m for non-priority on site linear habitats.
- 5.61 Based on the information provided and the empirical evidence gathered during the site visit, officers are content fall below the de minimis threshold and therefore could be deemed to be exempted from the statutory requirement for biodiversity net gain.

Other Matters

- 5.62 The concerns of the neighbours and Parish Council are noted and have been given careful consideration and addressed above. In addition, the following are noted:-
- 5.63 Any unacceptable noise issues associated with works at the site would need to be reported to the Environmental Health team for assessment under their legislation, to establish whether a statutory noise nuisance had occurred. No objections have been raised to light pollution from the proposed use of the building.
- 5.64 The alleged lack of need for a further nursery in the locality would be determined by the market. Any formal or informal agreements between community groups and the applicants regarding the use of the access road to the side of Rotary House would be a private matter to be resolved between the parties concerned.
- 5.65 With regard to any potential conflict with users of the cricket field/recreational grounds it is noted that children and babies would spend much of the day inside the

nursery building. When using the outside amenity area activities would be supervised and the building would provide screening from any recreational users of the playing fields in the same way as when Rotary House operated as a community centre.

Conclusion

- 5.66 The proposed change of use has been given very careful consideration having regard to the relevant policy context and views of residents and the Parish Council. With regard to policy CP26 it is concluded that the proposal, regardless of its commercial element, would continue to be in use as a community facility, although for a different age group. The principle of the change of use would not give rise to such a significantly harmful level of activity or result in highway or noise disturbance such as to justify withholding consent. There would be no undue harm associated with the external works to cause harm to the Green Belt or Conservation Area. The ACV procedures have been followed by the site owners and TMBC.
- 5.67 The proposal is found to be acceptable in terms of policies CP1, CP24, SQ1 and SQ8 of the MDE DPD and relevant paragraphs of the NPPF. In light of the above considerations, it is recommended that planning permission is granted.

6. Recommendation:

- 6.1 Approved 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 hereby permitted shall be carried out in accordance with the following approved plans and documents:

01 Location plan received
04 Existing floor plan
05 Proposed floor plan
02 Existing site layout plan
03 Proposed site layout plan
All received 10.6.2024

Transport Technical Note received 1.8.2024

Planning Statement received 5.8.2024

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. The parking spaces adjacent to the eastern side of the building the subject of this application shall be retained at all times for use by staff/customers in association with the nursery hereby approved.

Reason: In the interests of highway safety.

4. a) Within 3 months of the commencement of the development/use hereby approved a scheme of hard and soft landscaping, including details of existing trees and shrubs to be retained and size, species, planting heights, densities and positions of any soft landscaping, shall be submitted to the Local Planning Authority for written agreement.

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.

5. The nursery hereby approved shall only operate between the hours of 0700 and 1900 Monday to Friday.

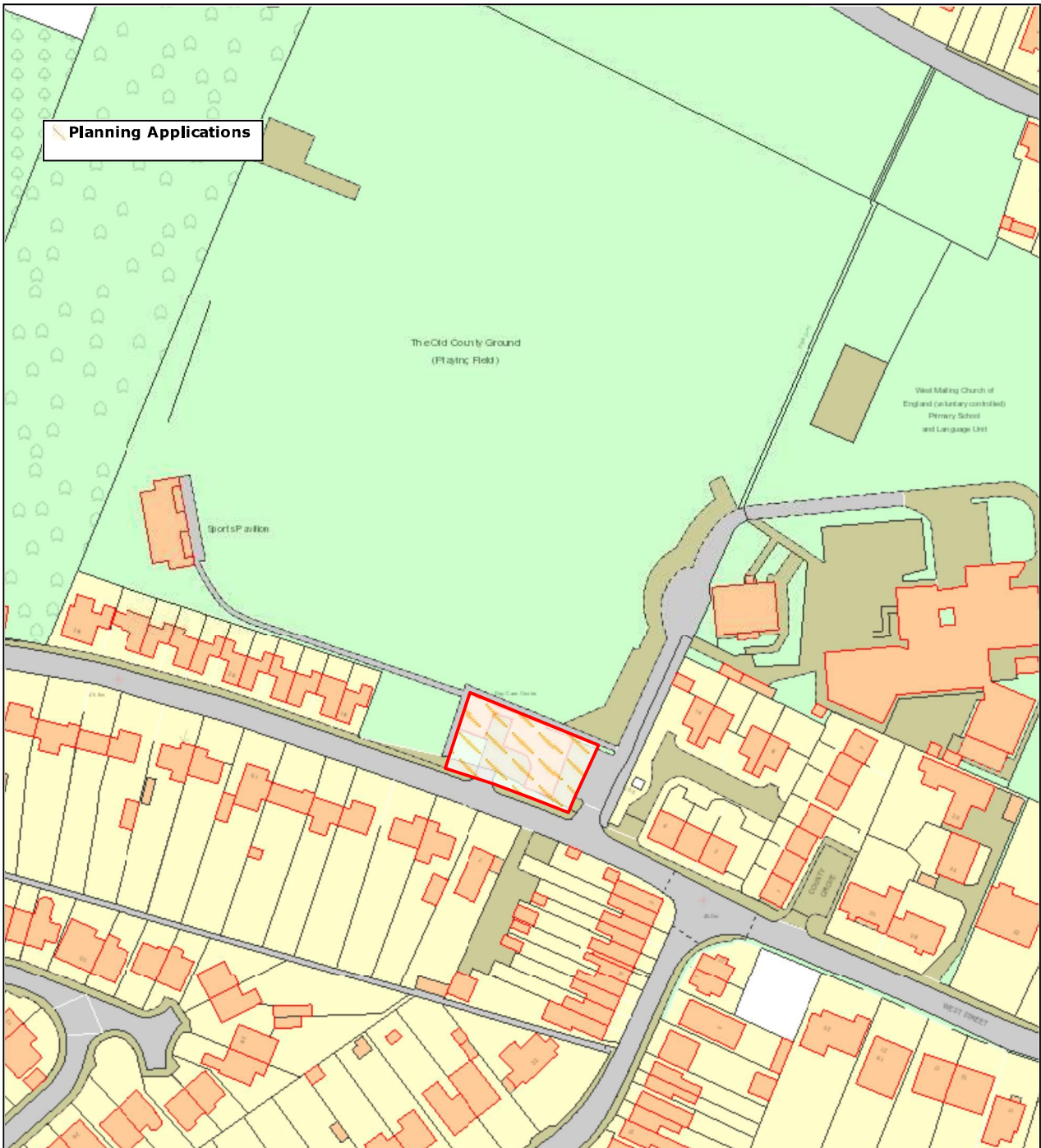
Reason: In the interests of the residential amenities of the occupants of nearby properties.

Informative:

1. Your attention is drawn to the requirements of the KCC Highways Engineer with regard to all necessary highway approvals and consents being obtained and the limits of the highway boundary having been clearly established, since failure to do so may result in enforcement action being taken by the Highway Authority.

Contact: Josh Kwok

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Planning Applications 24/00927/PA

Scale: 1:1250



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Date: 18/10/2024 11:05

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Platt

TM/24/00078/PA

Borough Green And Platt

Location: 119 Land South Of Windmill Hill Wrotham Heath Sevenoaks TN15 7SX

Proposal: Removal of soil bund and erection of 1x 3 bedroom detached dwelling with associated parking and landscaping

Go to: [Recommendation](#)

1. Description of Proposal:

- 1.1 The application seeks planning permission for removal of an earth bund and the erection of a detached dwelling and associated driveway and parking. The form of the dwelling would be flat roofed and curved to respond to the topography of the site following the removal of the bund.
- 1.2 The dwelling would be laid out over two levels with primary open plan living space (kitchen/diner/sitting room), two bedrooms and a study on the ground floor and a third ensuite bedroom on the first floor. This bedroom would open out onto a composite timber roof terrace with a metal balustrade.
- 1.3 The dwelling would be finished externally with timber cladding and a sedum roof with zinc fascia.
- 1.4 An access driveway would follow alongside the route of the existing track from Windmill Hill with parking provision for at least three cars to the north of the dwelling.

2. Reason for reporting to Committee:

- 2.1 Serving Councillor Adem Mehmet is acting as the agent for the applicant (Wrotham Heath Golf Club) and in accordance with Part 5, Protocol E8.6 (Members' Planning Code of Good Practice) of the Tonbridge and Malling Borough Council Constitution, the application needs to be determined at the relevant Area Planning Committee because objections have been received on the application.

2. The Site:

- 2.1 The site is situated in the Metropolitan Green Belt, in a rural setting outside of the built confines and settlement of Platt, approximately 1.6 km (1 mile) by road to the west of the site.

- 2.2 Wrotham Heath Golf Club owns the site, which is stated in the application as being surplus to their requirements. It lies immediately adjacent to the eastern boundary of the golf course. Access to the site is through an existing five bar field gate on the eastern side of Windmill Hill. A track leads from the gate for approximately 50 metres before joining with the golf course. PROW MR295 also follows the route of this track. The site is on the northern side of the track and PROW.
- 2.3 The agent describes the site as comprising of an artificial soil 'bund' that has been formed from soil deposits on the land from over 10 years ago when another development took place and spoil from the development was deposited on the land. The 'bund' is a heavily vegetated area of trees, bushes and scrub growing on this area of raised ground. A bare earth track is on the steeply sloping side of the bund to an opening in the vegetation at the bund's centre.
- 2.4 The site is partly designated as Ancient Woodland and is also part of the Valley Wood and Wrotham Golf Course Local Wildlife Site.
- 2.5 The area retains a generally rural character with surrounding land uses including the golf club to the east and sporadic residential development in the form of detached houses and gardens to the north, south and west. This is interspersed with areas of woodland.

3. Planning History (relevant):

05/00690/FL

Grant With Conditions - 23 May 2005

Enlargement of existing teeing grounds for the 12th 13th 17th and 18th tees

03/02108/RD

Grant - 14 August 2003

Details of archaeological programme of works pursuant to condition 2 of consent ref: TM/01/03387/FL (enlargement of teeing grounds for 5th, 6th, 7th and 8th tees)

03/00821/RD

Grant - 14 May 2003

Details of landscaping submitted pursuant to condition 3 of consent ref: TM/01/03387/FL (enlargement of existing teeing grounds for 5th, 6th, 7th and 8th tees)

01/03387/FL

Grant With Conditions - 13 June 2002

Enlargement of existing teeing grounds for the 5th, 6th, 7th and 8th tees

93/00920/RM

Approved - 12 February 1997

Details of ecological report submitted pursuant to condition 3 (part) of permission TM/92/1119FL - use of land as extension to golf course (from 11 to 18 holes)

93/00919/RM

Approved - 12 February 1997

Details of landscaping and boundary treatment and surfacing and reinstatement of footpath submitted pursuant to condition 03 (part A only) and 15 of TM/92/1119 (use of land as extension to golf course)

92/00552/FL

Grant With Conditions - 17 December 1992

Renewal of permission TM/86/1160 for the use of land as extension to golf course (from 11 holes to 18 holes)

86/10122/FUL

Grant With Conditions - 28 November 1986

Use of land as extension to Golf Course.

58/10933/OLD

Refuse - 09 January 1958

Outline Application for Residential Development. Valley Wood Wrotham Heath, Platt

54/10426/OLD

Refuse - 02 December 1954

Outline Application for Three Detached Dwellings and Access. Windmill Hill Platt

4. Consultees:

4.1 Parish Council:

Platt Parish Council objects to this application due to it being in the Green Belt.

4.2 KCC Ecology

Summary of first consultation response:

Ancient Woodland

- The site is within the Valley Wood and Wrotham Golf Course Local Wildlife Site (LWS) and partly within the Valley Wood Ancient replanted Woodland (AW).

- The importance of retaining Ancient Woodland is detailed within NPPF. It is our understanding that the proposed development will result in the felling of many trees and the removal of soil bund which could be part of the AW.
- If TBMC is considering granting planning permission they must be satisfied that the benefits of the proposed development clearly outweigh the loss and deterioration of the AW within the site boundary and that a suitable compensations strategy has been submitted.

Habitat of principal importance

- The PEA report describes a small section of the site as being deciduous woodland which is habitat of principle importance.
- The report also states that 0.167ha of the priority habitat will be lost by the proposed development and that indirect effects from construction could result in damaging the retained habitat.
- However due to time constraint of the PEA survey, no information has been submitted with the PEA report specifically about the current quality or extent of the habitat of principle importance.
- As such, it is recommended that a full phase 2 botanical survey is carried out to find out what species the site contains and make specific recommendations to mitigate for the habitat loss.
- We consider that currently the development doesn't appear to be adhering to the 'avoid, mitigate, compensate' hierarchy as supported by the NPPF. As the development is resulting in the loss of this habitat, we would request that any details of mitigation and compensatory measures are proportionate and achievable.
- The botanical survey, any additional surveys, and a mitigation strategy should be submitted prior to determination of the planning application.
- Currently we advise that there is insufficient information submitted to enable TMBC to fully consider the impact on the habitat of principal importance.

Invasive species

- The submitted ecological report has outlined that there is the presence of rhododendron scrub on site. Rhododendron is an invasive, non-native species under legislation of the Wildlife and Countryside Act 1981 (as amended). This legislation makes it an offence to plant or otherwise cause it to grow in the wild. The rhododendron scrub will be removed during construction works and could result in the spread of the invasive species into the surrounding woodland if left un-treated. Therefore we advise that full eradication is carried out prior to any development taking place.
- The required botanical survey should make recommendations on the containment, control and removal of rhododendron on site.

Biodiversity Net Gain and Ecological Enhancements

- At present we cannot confirm that biodiversity will be enhanced and maintained on the proposed development site.

Summary of second set of comments following submission of a Botanical Survey:

- Additional information is required prior to determination and the submitted information must consider the construction and operational phase of the proposed development.
- Cannot confirm that the current ecological features of the Ancient Woodland and habitat of principal importance will be retained and mitigated/compensated for the following reasons:
 1. The proposed development will result in the degradation and loss of deciduous woodland habitat of principal importance and ancient woodland but no mitigation/compensation measures have been proposed.
 2. The Natural England/Forestry Commission standing advice of a minimum 15m buffer zone between the development and ancient woodland has not been applied.
- The submitted ecological report has outlined that there is the presence of rhododendron scrub on site. Rhododendron is an invasive, non-native species listed under schedule 9 of the Wildlife and Countryside Act 1981 (as amended). This legislation makes it an offence to plant or otherwise cause it to grow in the wild. If left un-treated, the development will cause the spread of the plant elsewhere, especially that it will be removed during construction works and could result in its spread into the surrounding woodland. Therefore we advise that full eradication is carried out prior to any development taking place. It is recommended that an informative is attached to any granted planning application.
- We agree with the conclusions of the Preliminary Ecological Appraisal which state that it is unlikely that amphibians, reptiles, bats, badgers, dormice and nesting birds will be impacted by the proposed development. However their presence cannot be ruled out and as such we are satisfied that a precautionary mitigation strategy could be secured by condition.
- This planning application is exempt from Biodiversity Net Gain (BNG) as it was submitted before BNG requirements became compulsory.
- Enhancement features are not considered as part of a measurable net gain; however, in addition to the measurable net gains we expect enhancement features to also be incorporated into an enhancement plan within the red line boundary. These can include bat and bird bricks/durable boxes, log piles, hibernacula, and hedgehog homes, as well as generous native planting.
- At present we cannot confirm that biodiversity will be enhanced and maintained on the proposed development site. We advise that a landscaping plan is secured

with a condition if planning permission is granted and incorporates bat and bird bricks and generous native planting.

4.3 West Kent Ramblers:

- Concern about adjacent PRoW MR295 and nearby MR257. The applicant has responded 'No' to the questions on the planning application:
 - 'Are there any new public rights of way to be provided within or adjacent to the site?'
 - 'Do the proposals require any diversions/extinguishments and/or creation of rights of way?'
- This is not correct. The proposed development impinges upon MR295 on to which it abuts to the south of the development site. If the development went ahead, it is entirely possible that the applicant or future owner would apply for a diversion or extinguishment of the PRoW on the grounds of security and privacy concerns.
- There could be knock-on effects on MR257 a little further to the south.
- The applicant does not disclose any discussions which may have already taken place with KCC regarding the impact on these PRoW.
- West Kent Ramblers would seek to oppose any degradation to the existing PRoW network in this area.

4.4 Environmental Health Protection:

Contaminated Land

- Concerns about the soil bund on site due to the lack of clarity as to its origin and composition. It may contain materials that could pose a risk to future site users and require appropriate waste disposal methods. At this time, due to lack of information to allow me to make an informed decision, I would request the following conditions:
- Standard Contamination 1 (no phasing) (Site Characterisation)
- Standard Contamination 2 (no phasing) (Submission of Remediation Scheme & Implementation)
- Standard Contamination 3 (no phasing) (Verification)
- Hours/bonfires informative

4.5 Neighbours: 12 objections; 8 support.

4.6 Summary of objections:

Principal

- Set a precedent.
- Not allocated in Local Plan for housing.
- The site does not form an exception to Green Belt protections because the site does not contain previously developed land.

- The sand bund formed from waste/spoil from other developments does not constitute previously developed land.
- It does not meet the intention or definition of previously developed land.
- The bund was created by the golf course and is not an original feature of the land.
- The bund is very large and would require a lot of earth moving to clear it using heavy plant, which would be disproportionate for a single dwelling.

Visual amenity

- Proposed house would be over 5m high and would have a big impact as it would be clearly visible from the road, golf course and from neighbouring land.
- No visualisations are given looking from the road.

Residential amenity

- Noise, light and overlooking concerns.
- Concern of noise from heat and/or drainage pumps.

Highways and parking

- The road is unsuitable for heavy construction traffic.
- Any development will cause damage to the local road, the banks of Windmill Hill, its protected hedgerows and to land owned by others.
- The site is very small compared to other properties on the road and will be unable to offer a significant turning for visiting large vehicles.
- Proposed three parking places on the site is insufficient.
- There is no possibility of any on road parking in the vicinity due to the narrow lane.
- Potential for causing road/public footpath blockages from occupant's vehicles and visitors.

Footpaths

- Development would increase danger to pedestrians using Windmill Hill (The Weald Way) and the public footpath.
- It is unclear how the development will affect public footpaths.
- Risks to pedestrians and animals especially those using the Weald Way walking route.
- Many local people walk their dogs along Windmill Hill.

Ecology

- Harmful impact on biodiversity.
- Trees would be removed.
- Ecological appraisal is inconclusive, some conclusions are flawed and it relies heavily on significant caveats.
- The dense vegetation on the bund provides a good habitat and should be left undisturbed.

- The site contains areas of trees classified as ancient woodland which should remain untouched.
- The site is heavily shaded for much of the day and solar panels on the roof will not be efficient.
- Insufficient land on site for a ground solar installation.
- Unclear if the existing infrastructure can even support any new dwellings.
- Dated local services and utilities (electricity network, internet capacity, lower water pressure and no connection to sewers).
- Unclear where any drainage fields for sewage could be.

4.7 Summary of support:

- The golf club is a member's club and there are limited means of funding much needed improvements to the clubhouse.
- Proposed development is vital for securing funds to aid the longevity of the golf club.
- The clubhouse is leased from the Diocese of Rochester who have stated they are not interested in volunteering funds.
- This planning permission is therefore the only viable option for funding the improvements.
- The proposed development minimises impact and is in keeping with the rural setting.
- High quality design.
- Any surplus soil etc could be used or redistributed within the boundaries of the golf course.
- Only scrub would be affected that has grown over the past 10 years.
- The mature trees are only on the periphery and would remain.
- Proposed development will not impact the ancient woodland.
- Services including water supply are excellent in the area.
- Other developments have been successfully carried out along the lane.

5. Determining Issues:

Principle of Development

- 5.1 The starting point for decision making, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990, is the adopted development plan. Decisions should be taken in accordance with the policies in such plans, unless material considerations indicate otherwise.
- 5.2 The site lies in the countryside. Policy CP14 of the TMBCS seeks to restrict development in the countryside and whilst this local plan policy lists a number of

exceptions, the proposal does not fall within one of these exceptions. The proposal is therefore contrary to the Local Plan in this regard.

- 5.3 TMBC cannot presently demonstrate a five-year supply of housing and consequently, in accordance with paragraph 11 d) and footnote 8 of the NPPF, much of the development plan is out of date for the purposes of determining applications for new housing development.
- 5.4 The tilted balance in paragraph 11 d) of the NPPF states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of- date, planning permission should be granted 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.
- 5.5 Footnote 7 provides a list of those policies that relate to protected areas and assets of particular importance. These include amongst other things Green Belt and irreplaceable habitat such as ancient woodland, in which the site lies. It must therefore first be established whether the proposed dwelling is acceptable regarding these protected areas.

Green Belt

- 5.6 The site lies within the Green Belt, where policy CP3 of the TMBCS applies. This policy states that national Green Belt policy will apply. Paragraphs 152 – 155 of the NPPF relate specifically to proposals that affect the Green Belt.
- 5.7 Paragraph 152 of the NPPF states that ‘inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 5.8 Paragraph 153 of the NPPF states that ‘substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 5.9 The Planning Statement states:

In this case, due to the presence of the large artificial soil bund, which would have constituted operational development when formed, it is considered that the site can be considered previously developed land.

5.10 The applicant is therefore citing exception g) of paragraph 154, which states:

(g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- not have a greater impact on the openness of the Green Belt than the existing development; or
- not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

5.11 Whilst the soil bund may have been deposited on the land at some previous point in time, it is not considered 'previously developed.' This can be assessed in relation to the NPPF definition of previously developed land that is given in Annex 2: Glossary:

5.12 *Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.*

5.13 The Planning Statement also states:

Given the size and scale of the bund, and its appearance as an incongruous feature on the landscape, it is considered that the openness of the Green Belt would be preserved by its removal and replacement with a dwelling of comparable size.

5.14 Upon inspection of the site by the Case Officer, it was clear that the bund is substantially overgrown with a wide variety of vegetation. It is now so embedded into the landscape that it would not be readily discernible as anything other than a raised area of ground that is part of the natural landscape. Consequently, it is not accepted that the bund has the appearance of an incongruous feature in the landscape.

5.15 The reasons why the application site does not constitute 'previously developed land' test are three-fold:

- a) There is no evidence of any intention that the soil bund was placed there for any operational development purposes and there is no evidence of it being given planning permission as development.
- b) Even if operational development has occurred as alleged, annex 2 of the NPPF is clear that only certain types of development could cause a site to become previously developed; these include a permanent structure, and any associated fixed surface infrastructure. None of these are presented on site. The soil bund could not reasonably be treated as a structure or an infrastructure. Hence, the site would not qualify as previously developed land in any event.
- c) The soil bund is now so overgrown and established that it has effectively blended naturally into the landscape.

5.16 The proposal therefore lacks any of the very special circumstances required to outweigh the identified definitional, spatial and visual harm caused by the proposed dwelling.

5.17 Paragraph 142 of the NPPF states that the essential characteristics of Green Belts are their openness and permanence. The proposal would create a new permanent and substantial building on land currently open and undeveloped. The presence of a development of this scale and nature would erode the sense of openness in both spatial and visual terms. Moreover, by developing the site for housing, it would undermine the ability of the application site to fulfil its intended Green Belt purposes. The site once developed would no longer be able to assist in safeguarding the countryside from encroachment. For these reasons, the proposal would be inappropriate development, by definition, harmful to the Green Belt and would not be supported other than in very special circumstances.

5.18 The Planning Statement suggests that removal of the soil bund would be of benefit to the health and viability of the trees forming part of the woodland and to the surrounding landscape. The proposal would also contribute towards the supply of new home and the vitality of golf club. These collectively are put forward as very special circumstances to justify the proposal.

5.19 Whilst noting the argument made, the need to achieve high quality design and enhance biodiversity is a policy requirement and therefore compliance with the relevant policies is a prerequisite for it to be acceptable instead of a benefit that could be weighed against the harm to Green Belt and other harm identified elsewhere in this report.

5.20 The proposal would contribute positively towards the supply of new homes, but this contribution would be modest in relation to the identified shortfall in housing land supply. In relation to the viability of the golf club, there is no evidence to suggest the club is currently financially unviable. There are multiple avenues by which extra

funding and income could be secured or generated, irrespective of the current proposal. There is also no guarantee that the income levied through this development would be reinvested into the golf club to ensure its ongoing viability.

- 5.21 Concluding on the principle of development, the proposal would not fall to be considered any of those exceptions listed in Paragraphs 154 and 155 of the NPPF and hence would be inappropriate development, by definition, harmful to the Green Belt. It would by reason of its scale, nature and siting erode the sense of openness in both visual and spatial terms and would make the application site less effective in performing in its intended Green Belt purposes.
- 5.22 Furthermore, whilst noting the nominal benefits put forward in the Planning Statement, none of them would individually or collectively outweigh the harm to Green Belt by reason of the inappropriateness of this development and other harm highlighted elsewhere in this report. As such, very special circumstances have not been satisfactorily demonstrated in accordance with Paragraph 153 of the NPPF. To permit the development in its current form is considered to be unduly detrimental to the essential characteristic and purposes of the Green Belt, contrary to Policy CP3 of the TMBCS and Chapter 13 of the NPPF.
- 5.23 Applying the Green Belt policies in the Framework would provide a clear reason for refusing the development proposed. The tilted balance set out in Paragraph 11 d) could thus be disengaged in this instance.

Sustainability

- 5.24 Paragraph 8 of the NPPF states that achieving sustainable development means that the planning system has 3 overarching objectives, which are 1) economic, 2) social and 3) environmental. In this case, the main ones are considered to be social and environmental objectives. The social objective is to provide a sufficient number and range of homes to meet the needs of present and future generations; and by fostering well-designed beautiful and safe places, with accessible services. The environmental objective is (inter alia) to protect and enhance our natural, built and historic environment; including making effective use of land and improving biodiversity.
- 5.25 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.
- 5.26 Paragraph 70 of the NPPF acknowledges that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. It adds that LPAs should support the

development of windfall sites through policies and decisions, giving great weight to the benefits of using suitable sites within existing settlements for homes.

5.27 Paragraph 84 of the NPPF states Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
- b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
- c) the development would re-use redundant or disused buildings and enhance its immediate setting;
- d) the development would involve the subdivision of an existing residential building;
or
- e) the design is of exceptional quality, in that it:
is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

5.28 The site is not within an existing settlement and is not in particularly close proximity to access Platt at approximately 1.6km distance along rural roads. There are several sporadic dwellings in the area, so the proposed dwelling would not be isolated from other dwellings.

5.29 Small windfall sites together with other windfall sites in the Borough make an important contribution to housing supply. In this regard the site could be considered to achieve sustainable development and aligns with the with the aims of paragraphs 70 and 84 of the NPPF. Consequently, the development should not be refused on sustainability grounds.

Character and Appearance

5.30 Paragraph 180 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

5.31 Policy CP24 of the Core Strategy states 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.

- 5.32 The site is within a wooded area on the eastern side of Windmill Hill that overlooks the golf course and a public right of way. There are sporadic numbers of other buildings that are either residential or agricultural in nature so that in appearance the road is largely viewed as a tree and hedge lined undeveloped country lane. Therefore, the overwhelming visual character is of being within the open countryside, outside of the nearest settlement.
- 5.33 The retention of existing mature vegetation would offer some screening from the road but only provide effective screening when in full leaf. Significant clearance of the site to facilitate the development would open up views into and through the site. Any further tree and hedgerow planting would not be sufficient to wholly screen the development in the same way as the trees intended for removal. Nor should this be relied upon to do so. The magnitude of change in character and the degree of visual harm to the rural setting would detract from the wooded character of the area and would undoubtedly turn the site from an undeveloped wooded area to a domestic site that would urbanise it, with the loss of open land.
- 5.34 The elevated position of the site would also allow the development to be particularly visible from the golf course and the public right of way that runs alongside the development site and across the golf course. It would become a stark and prominent addition to this rural setting, particularly by reason the choice of design.
- 5.35 In respect of the design of the dwelling, it is too stark and inappropriate for the prevailing context i.e. within a tree lined country lane on one side and an exposed countryside location from the golf course and public right of way on the other side.
- 5.36 The use of plain, rectangular forms and flat roofs is out of character with the local vernacular. The design is lacking in any detailing or articulation. The facades are devoid of any architectural features of interest, and the overall appearance is bland and boxy with large expanses of cladding, glass and a proliferation of window openings used for the elevations. The overall design lacks any sense of place or identity and has no special or outstanding architectural merit, contrary to the assertion presented in the Planning Statement.
- 5.37 In terms of landscaping, the application is not supported by a landscaping scheme. Whilst this could be secured via condition, it is noteworthy that by virtue of the topography of the land and siting of the proposed dwelling, any additional landscaping would do very little to mitigate the significant visual harm identified earlier.
- 5.38 In conclusion, it is considered that the proposed development would lead to erosion of the rural landscape through domestication of a site currently open, undeveloped forming integrate part of an ancient woodland in the countryside. It would result in unacceptable visual harm to the visual amenity of the rural setting and the wider landscape. With no overriding justification of the site for residential purposes, it is

concluded that the proposal would cause significant harm to the character and appearance of the area. The proposal fails to comply with Policy CP24 and paragraph 180 of the NPPF, which requires planning policies and decisions to contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. Consequently, the development should be refused on visual amenity grounds.

Residential Amenity

- 5.39 Paragraph 135 (f) of the NPPF states 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.
- 5.40 Policy CP1 of the TMBCS requires all new development to result in a high-quality sustainable environment and (inter alia) in determining planning applications residential amenity will be preserved and where possible enhanced.
- 5.41 In terms of impact upon neighbouring amenity, this would be considered to be acceptable were all other aspects in accordance with policies. The distances retained between the proposed dwelling and neighbouring properties is sufficient to prevent harm to neighbouring amenities in terms of overshadowing, loss of outlook or loss of privacy.

Quality of Accommodation

- 5.42 The Nationally Described Space Standards (NDSS) state that a 3-bed dwelling over two storeys should be a minimum of 102sqm in the case of 6 bed spaces. The proposed dwelling has a floor area of approx. 162 sqm, so it complies with the NDSS. All bedrooms meet the NDSS minimum bedroom standard of 11.5sqm. All habitable rooms would benefit from at least one reasonable sized window with an open outlook. The dwelling could provide the future residents a good standard of internal living arrangement and overall, is considered to achieve a satisfactory quality of accommodation.
- 5.43 The outdoor amenity space would surround the dwelling and provide the necessary degree of privacy. The amenity space would be commensurate with a dwelling of this size and it would provide the respective occupiers a good quality of accommodation.

Highway Safety and Parking Provision

- 5.44 Policy SQ8 of the MDE DPD states that development will only be permitted where there will be no significant harm to highway safety. Paragraph 114 of the NPPF requires development to promote sustainable transport modes, provide safe and suitable access to the site, the design of any road layout to reflect current national guidance and any significant impact on the highway to be assessed.

- 5.45 Paragraph 115 continues and states that development should only be refused on transport grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts of the development would be severe.
- 5.46 The submitted plans indicate the proposed vehicle access is via an existing access off Windmill Hill. The existing access has good visibility splays on either side and the proposal would not involve a new access onto the road.
- 5.47 A development of this scale would not materially impact upon the rural road network as it would only generate a small number of vehicular movements into and out of the already existing access, which would not significantly add to the existing situation. As such, it would not be prejudicial to highway safety or users of the highway.
- 5.48 The proposal includes provision of three car parking spaces in front of the property. Sufficient space is therefore seen to be achievable for a number of cars within the curtilage of the proposed dwelling.
- 5.49 Accordingly, the development would not have an unacceptable impact upon highway safety and parking provision, adhering to Saved Policy P4/12 of the TMBLP, Policy SQ8 of the MDE DPD and paragraphs 114 and 115 of the NPPF.

Biodiversity

- 5.50 The proposed development is within the Valley Wood and Wrotham Golf Course Local Wildlife Site (LWS) and partly within the Valley Wood Ancient Replanted Woodland (AW).
- 5.51 Policy NE2 of the MDE DPD seeks to protect, conserve and enhance the biodiversity of the Borough, whilst policy NE3 requires development that would adversely affect biodiversity to only be permitted if appropriate mitigation measures are provided.
- 5.52 Policy NE4 states that development that would result in the net loss or deterioration of woodland will only be permitted if all of the following tests are met:
- a) development cannot reasonably be located on an alternative site;
 - b) the need for development clearly outweighs any harm which may be caused to the ecological, archaeological and landscape value of the woodland; and
 - c) harm can be reduced to acceptable limits through the implementation of positive environmental mitigation measures within the site or by replacement planting elsewhere or enhanced management.
- 5.53 Policy NE4 also states that Ancient Woodland will be protected, and where possible, enhanced through improved management. Development that would adversely affect ancient woodland will not be permitted unless the need for, and benefits of, the development in that location can be demonstrated to override the harm that would be caused to the ecological and historical importance of the ancient woodland.

- 5.54 The pre-text to Policy NE4 states that within Tonbridge and Malling, there are 2558ha of ancient woodland. Nationally, ancient woodland is identified as a valuable and by definition, is an irreplaceable biodiversity resource. Development that would result in loss or deterioration will therefore not normally be permitted. The nature conservation value of woodland generally increases with age provided it is appropriately managed and consequently the diversity of species occurring in Ancient Woodland cannot be recreated by replacement planting.
- 5.55 This is supported by paragraph 180 of the NPPF, which requires the planning system to contribute to and enhance the natural and local environment. The importance of retaining AW is detailed within paragraph 186 c) of the NPPF which states: “development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists”.
- 5.56 Deciduous woodland is a habitat of principal importance and paragraph 84 of the OPDM Circular 06/2005 states that: Impacts to habitats of principal importance are: “Capable of being a material consideration in the...making of planning decisions.”
- 5.57 Therefore, it is Government policy to discourage development that will result in the loss of AW, as it is widely regarded as irreplaceable and has significant value due to the long history of woodland cover, with many features remaining undisturbed.
- 5.58 The application is accompanied by a Phase 2 Botanical Survey and a Preliminary Ecological Appraisal (PEA); all of which have been considered by KCC Ecology in the consultation response.
- 5.59 The findings of the botanical survey state that the bund is assumed to have been put in place prior to the 1980s, but it is certainly not an ancient feature. It is a clear made ground feature and contains a simplified community of bramble and nettle indicating at least part of the material is nutrient enriched. This forms a steep embankment and as yet, there is no evidence that ancient woodland indicators have colonised (although only a springtime visit can confirm this).
- 5.60 However, it seems that it has been deposited in the past over former AW soils which are preserved underneath and seem to carry restoration potential. It should be noted that the Natural England Standing Advice states ‘wooded continuously’ does not mean there’s been a continuous tree cover across the whole site. Not all trees in the woodland have to be old. Open space, both temporary and permanent, is an important component of ancient woodlands.
- 5.61 The proposed development would result in the felling of many trees in the ancient woodland, which falls to be considered, for the purpose of paragraph 186 c) of the NPPF, an irreplaceable habitat. Whilst there is only a strip along the east of the

proposed development that is annotated in the Council's GIS as AW, the botanical survey states that the woodbank along the road is likely to be AW too. This observation is supported by the data on Natural England Magic Map, which shows the entire site as being an AW.

- 5.62 The Natural England/Forestry Commission standing advice states that there should be a minimum 15m buffer zone between development and AW. This includes residential gardens, which on the proposed plans, it clearly shows that the proposed development is within the 15m buffer and that no buffer zone has been suggested.
- 5.63 When considering whether or not to grant planning permission, the LPA must be satisfied that the benefits of the proposed development clearly outweigh the loss and deterioration of the AW within the site boundary and that a suitable compensation strategy has been submitted, which in this case has not been provided.
- 5.64 The PEA report describes a section of the site as being deciduous woodland, which is a habitat of principal importance. At least 0.167ha of the habitat of principal importance would be destroyed by the proposed development and that indirect effects from construction would potentially cause damage to the retained habitat.
- 5.65 The PEA did not identify the presence of any protected species or notable plant species on the site, but it did state that the site had been surveyed in a sub-optimal period for surveying and such species may not have yet been visible. The PEA states that due to the presence of woodland, scrub, dead wood and brash piles, a variety of fauna may well use the site including common amphibians, reptiles, foraging bats, hedgehogs, nesting birds, foraging barn owls and common invertebrates. It is therefore important that due regard is afforded to the retention of this important habitat.
- 5.66 The botanical survey states that the retained habitat of principal importance would be damaged (degradation) if retained within residential gardens, which would be the case here.
- 5.67 The Natural England standing advice also highlights that development can have a negative impact due to a number of matters including (but not limited to) an increase in light, dust and noise.
- 5.68 In light of the advice received from KCC Ecology, it is concluded that there is not sufficient information to demonstrate that the development would not result in the loss of an irreplaceable habitat or harm to protected and priority species. The development proposal would not adhere to the 'avoid, mitigate, compensate' hierarchy as supported by the NPPF, as the development would likely result in the degradation and loss of Ancient Woodland, a habitat of principal importance and a Local Wildlife Site.

- 5.69 It is unlikely that any mitigation or compensatory measures be proportionate and achievable to avoid a degradation and loss of an irreplaceable habitat and habitat of principal importance of this scale.
- 5.70 In addition, no clarifications have been submitted on whether alternative sites, not in AW, habitat of principal importance or a LWS have been considered and justification provided for the current choice of location in the context of the surroundings. As such the proposed development does not comply with the requirements of Policy NE4 of the MDEDPD and Chapter 15 of the NPPF
- 5.71 In conclusion, it is considered that the proposed development would contrary to paragraph 186 c) of the NPPF and also Policies NE2, NE3 and NE4 of the MDEDPD. Consequently, applying the policy that protects irreplaceable habitat in the Framework would provide another clear reason for refusing the development proposed in addition to the Green Belt reason.

Contamination

- 5.72 Environmental Health Protection consider that whilst there is lack of information on possible contaminants at the site, further information could be sought by condition, if the development was acceptable in all other respects.
- 5.73 Whilst the application form indicates the dwelling would be connected to the mains sewer, there do not appear to be nearby sewer lines and no other method of foul water disposal is proposed. Nevertheless, if the development were acceptable, this could be dealt with by way of an appropriate planning condition.

Public Right of Way (PRoW)

- 5.74 The proposed development could impact upon PRoW MR295, which abuts to the south of the development site and also MR257 to the east.
- 5.75 Whilst I note West Kent Ramblers concerns, the plans show that both of the PRoWs have been considered and look to remain unaffected by the proposed development. Additional new hedging is also proposed along the existing public footpath to add screening and privacy.
- 5.76 If the development were acceptable in all other matters, a condition could be added to ensure the footpaths remain open and unobstructed both during the development works and after the development is complete.

6. Conclusion

- 6.1 The proposal would create a new house on land currently undeveloped and therefore would constitute inappropriate development, by definition, harmful to the Green Belt. It would erode the openness of the Green Belt and undermine the purposes of

including the site within it. The potential benefit of this development is noted but is not considered to clearly and demonstrably outweigh the harm to Green Belt identified above and other harm resulting from this development. As such, very special circumstances have not been satisfactorily demonstrated in accordance with the NPPF and the principle of development is not acceptable on this occasion.

- 6.2 The rural and undisturbed nature of the site would not lend itself to residential development. The proposal would result in an overtly domestic form of development within a rural countryside location. It would appear as an incongruous and intrusive built form wholly out of character with its immediate surroundings. This would be detrimental to the rural landscape character of the countryside.
- 6.3 The application has failed to demonstrate that the proposal would preserve and enhance the biodiversity, habitat of principle importance, a Local Wildlife Site and Ancient Woodland (AW) presented on site. Neither does it provide benefit that would clearly outweigh the loss and deterioration of the site's biodiversity. No mitigation or compensatory measures are proposed to avoid degradation and loss of the irreplaceable AW habitat and habitat of principle importance.
- 6.4 Notwithstanding the lack of a five-year housing land supply and consequently an up-to-date local plan, the application site sits in a protected area identified in Footnote 7 of the NPPF. For the reason given above, applying the Green Belt and biodiversity policies in the NPPF provides clear reasons for refusing the development proposed and as such the tilted balance set out in Paragraph 11 d) of the NPPF could be disengaged. The proposal is not considered represent a form of sustainable development as defined in the NPPF and is thus recommended for refusal.

7. Recommendation:

- 7.1 Refuse subject to the following:

Reasons:

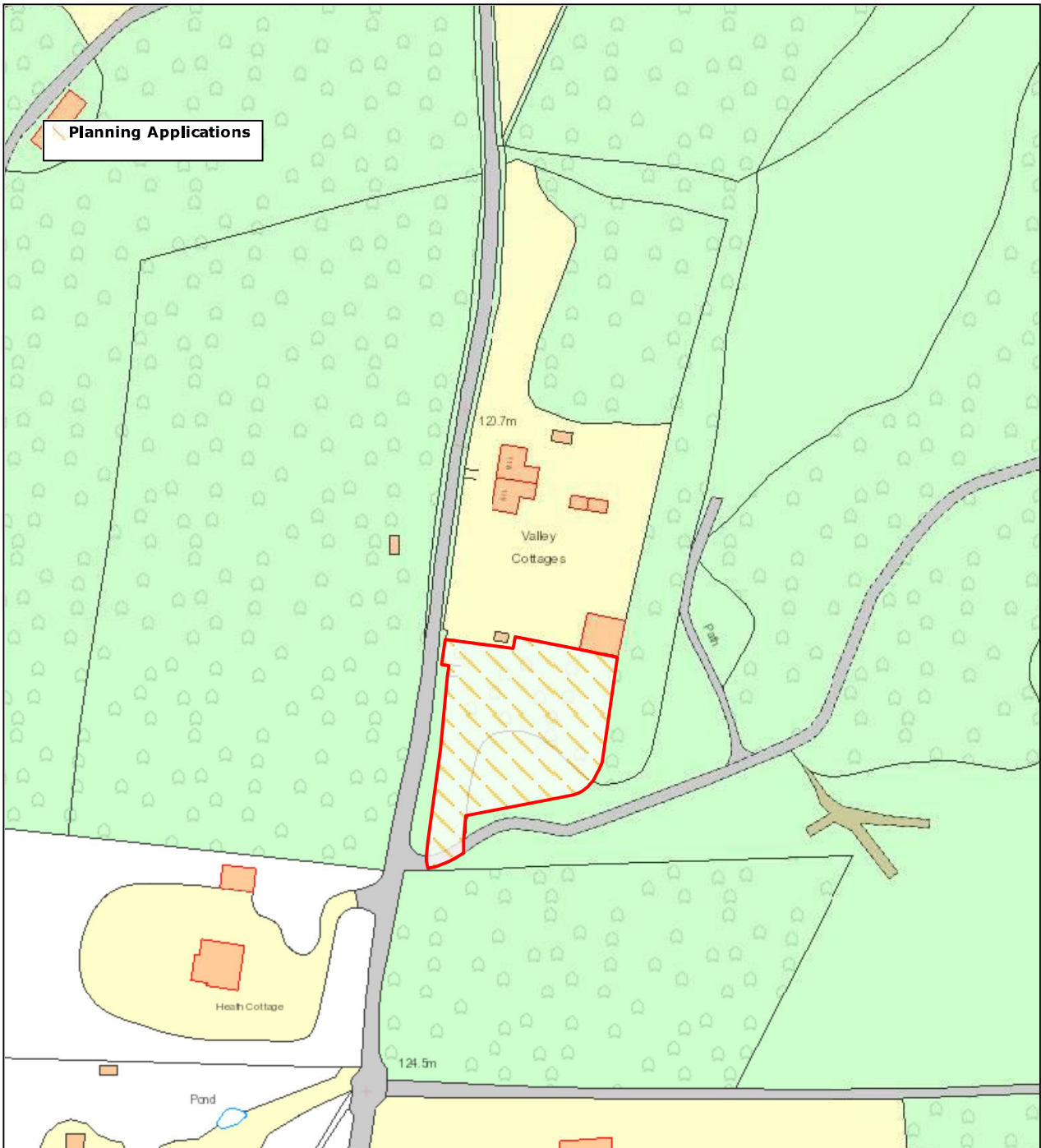
1. The site lies within the Green Belt where there is a strong presumption against inappropriate development, as defined in Chapter 13 of the National Planning Policy Framework. The proposal would introduce a new building on land not previously developed and therefore would fall outside the scope of paragraph 154 g) of the NPPF relating to limited infilling and partial and complete redevelopment of previously developed land. It would constitute inappropriate development, by definition, harmful to the Green Belt and would not be permitted other than in very special circumstances. The additional bulk and massing resulting from this development would not only erode the sense of openness in both visual and spatial terms but also undermine the ability of the application site to assist in safeguarding the countryside from encroachment. There are no other considerations that could

clearly and demonstrably outweigh the harm to the Green Belt and other harm arising from this development. To permit the development proposal would thus give rise to a significant conflict with Policy CP3 of the Tonbridge and Malling Borough Core Strategy 2007 and Chapter 13 of the National Planning Policy Framework 2023.

2. The development proposal by reason of its scale and siting would result in the loss of trees forming part of an ancient woodland identified in the NPPF as an irreplaceable habitat and in the MDEDPD as a local wildlife site. The failure to retain a minimum of 15m buffer zone as per the relevant standing advice would put further pressure on and creating conflict between the remaining habitat and the proposed development, detrimental to the biodiversity and integrity of the ancient woodland. Moreover, the supporting documents fail to give adequate consideration to the development impact on protected and priority species and consequently to formulate appropriate mitigation and compensation measures reasonably necessary to make this development policy compliant. These shortcomings would collectively give rise to a significant adverse impact on the ancient woodland and biodiversity of the site surroundings and would put protected and priority species at risk of disturbance contrary to Policies NE2, NE3 and NE4 of the Managing Development and the Environment Development Plan Document 2008 and Chapter 15 of the National Planning Policy Framework 2023.
3. The proposal would result in an overtly domestic form of development within a rural countryside location which would appear as an incongruous and intrusive built form, detrimental to the prevailing character and appearance of the countryside and the wider landscape. To permit the development would therefore be contrary to Policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007 and paragraph 180 of the National Planning Policy Framework 2023.

Contact: Sarah Edwards

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Planning Applications 24/00078/PA

Scale: 1:1250



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Date: 18/10/2024 11:07

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Planning Committee Area 2

Planning Appeal Decisions for Area 2

TMBC Ref	23/03374
PINS Ref	APP/H2265/W/24/3343331
Site Address	Westbank London Road Addington West Malling
Description of development	Replacement dwelling with new external works and landscaped garden
Appeal Outcome	Dismissed 20 November 2024
<i>Insert hyperlink to decision</i>	Appeal Decision
Costs Awarded	Not Applicable

TMBC Ref	23/03532
PINS Ref	APP/H2265/D/24/3344959
Site Address	Glebe Lodge Maidstone Road Platt
Description of development	Proposed raised pitched roof to create new first floor level
Appeal Outcome	Appeal Dismissed 20 November 2024
<i>Insert hyperlink to decision</i>	Appeal Decision
Costs Awarded	Not Applicable

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Agenda Item 12

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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