



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

11 February 2025

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, 19th February, 2025 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](#).

Yours faithfully

DAMIAN ROBERTS

Chief Executive

A G E N D A

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 - 12

To confirm as a correct record the Minutes of the meeting of Area 2 Planning Committee held on 15 January 2025.

5. Glossary and Supplementary Matters 13 - 20

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/22/01570/OA - Land North East and South of 161 Wateringbury Road 21 - 140

Outline Application: All matters reserved except for access for the erection of up to 52 residential dwellings, including affordable housing, open space and landscaping, roads, parking, drainage and earthworks. New access to be formed from Wateringbury Road.

Matters for Information

7. Planning Appeals, Public Inquiries and Hearings 141 - 142

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

8. Urgent Items

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

Matters for consideration in Private

9. Exclusion of Press and Public 143 - 144

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

Matters for Information

10. TM/22/01570/0A - Land North East and South of 161 Wateringbury Road 145 - 156

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

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

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.

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-ugSzxiAPfw/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@tmhc.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@tmhc.gov.uk for further information.

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

Ground Rules:

The meeting will operate under the following ground rules:

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

For those Members participating online:

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

Voting:

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

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

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TONBRIDGE AND MALLING BOROUGH COUNCIL

AREA 2 PLANNING COMMITTEE

MINUTES

Wednesday, 15th January, 2025

Present: Cllr W E Palmer (Chair), Cllr C Brown (Vice-Chair), Cllr B Banks, Cllr S Crisp, Cllr Mrs T Dean, Cllr S A Hudson, Cllr R V Roud, Cllr K B Tanner, Cllr Mrs M Tatton and Cllr M Taylor

Councillors D Thornewell, Mrs S Bell*, D Harman*, M A J Hood* and Mrs A S Oakley* was also present pursuant to Council Procedure Rule No 15.21.

(*participated via MS Teams)

Apologies for absence were received from Councillors R P Betts, P Boxall, M A Coffin and J R S Lark. An apology for in-person attendance was received from Councillor M D Boughton who participated via MS Teams in accordance with Council Procedure Rule No 15.21.

PART 1 - PUBLIC

AP2 25/1 DECLARATIONS OF INTEREST

For reasons of transparency, Councillor Mrs M Tatton advised that she was the Parish Clerk for Teston Parish Council who were one of the consultees on application TM/22/01570/OA (Land North East and South of 161 Watringbury Road). However, as she had not been involved in any decision making regarding the Parish Council's response, this did not represent either a Disclosable Pecuniary or Other Significant Interest and there was no requirement for her to withdraw from the meeting or to not participate in the debate.

Councillors Mrs M Tatton and Councillor R Roud advised that they had no involvement in the statement submitted on behalf of East Malling and Larkfield Parish Council in respect of application TM/22/01570/OA (Land North East and South of 161 Watringbury Road) and that they had no sight of the report prior to its publication.

AP2 25/2 MINUTES

RESOLVED: That the Minutes of the ordinary and extraordinary meetings of the Area 2 Planning Committee held on 4 December and 12 December 2024 respectively be approved as a correct record and signed by the Chairman.

AP2 25/3 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 25/4 TM/22/01570/OA - LAND NORTH EAST AND SOUTH OF 161 WATERINGBURY ROAD

Outline Application: All matters reserved except for access for the erection of up to 52 residential dwellings, including affordable housing, open space and landscaping, roads, parking, drainage and earthworks. New access to be formed from Wateringbury Road.

Due regard was given to the determining issues and conditions as detailed in the report of the Director of Planning, Housing and Environmental Health, with particular attention given to the concerns raised by the public speakers. Members expressed significant concern in respect of the potential impact of the proposed development on the surrounding listed buildings and non-designated heritage assets, the harm to the landscape and the East Malling Conservation Area.

Councillor Tatton proposed, seconded by Councillor R Roud that:

(1) the application be refused for the following reasons:

- The proposal would result in less than substantial harm to the Designated Heritage Assets of Huntley Cottage, 122 Wateringbury Road, East Malling, Ivy House Farm and the East Malling Conservation Area especially in relation to the landscape harm and less than substantial harm to the non-designated heritage asset of Belevedere Oast Farm. These adverse impacts would significantly and demonstrably outweigh the public benefits proposed by the application. The proposal would therefore be contrary to paragraphs 215 and 216 of the National Planning Policy Framework (NPPF), Policy CP1 of the TMBCS and Policy SQ1 of the MDE DPD 2020.

- The ecological mitigation measures proposed would not adequately protect the protected species on the site sufficiently to give confidence to the Local Planning Authority that the sequential tests for mitigation had adequately been applied sufficiently that a conclusion cannot be reached to assess the direct impact. The proposal was therefore contrary to paragraph 193(a) of the NPPF and Policy NE3 of the MDE DPD 2020.
 - The development by virtue of its location would not represent a sustainable location in accordance with paragraph 8 of the NPPF and would therefore lead to unacceptable reliance on the private car contrary to paragraph 117 of the NPPF and policies CP1 and CP2 of the TMBCS.
 - The proposed development by virtue of the proximity to the boundary of 51 Wateringbury Road would result in overlooking and loss of amenity to the occupants of that property that could not be satisfactorily ameliorated by landscape proposals. As such the development was contrary to policies CP1 and CP24 of the Core Strategy and the NPPF; and
- (2) the refinement of the wording be delegated to the Director of Planning, Housing and Environmental Health, in consultation with Ward Members.

In accordance with Council Procedure Rule 15.25, Part 4 Rules of the Constitution, it was

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

[Speakers: Cllr V Gillece (on behalf of East Mallings and Larkfield Parish Council), Cllr P Coulling (on behalf of Teston Parish Council), Mr T Lock, Mr G Kenward, Mrs N Allen, Mr J Allen, Ms F Saunders, Mr M Crowcroft, Ms K Moore, Mr M Bagely (on behalf of Mrs S Page), Mr M Page, Mr P Jordan, Mr S Brett (members of the public) and Mr A Wilford (on behalf of the Applicant) addressed the Committee in person.]

AP2 25/5 TM/23/03241 - DEVELOPMENT SITE WEST OF WINTERFIELD LANE, EAST MALLING

S73 Application to vary planning condition 11 (Access plans) to TM/19/01814/OA Outline Application: Erection of up to 250 new homes (40% affordable), new community building, provision of a new country park and other areas of public open spaces, areas of play, upgrade of existing footpaths, together with new vehicular access onto London Road and associated parking and landscaping.

Due regard was given to the determining issues and conditions as detailed in the report of the Director of Planning, Housing, and Environmental Health with particular attention given to the concerns raised by the public speakers and due consideration given to the retaining and bank options contained in the report.

Members expressed concern in respect of the copse where trees were subject to a woodland Tree Preservation Order (TPO), the design of the cycle/footway and how this would be used, the impact on local character and the landscaping of the area.

RESOLVED: That the application be DEFERRED to allow for further discussion on suitable alternative options to mitigate any impact on the copse which was subject to a woodland Tree Preservation Order.

[Speakers: Cllr K O'Shea (on behalf of Leybourne Parish Council), Mr N Fowler (member of the public) and Mr P Dadswell (on behalf of the applicant) addressed the Committee in person].

AP2 25/6 PLANNING APPEALS, PUBLIC INQUIRIES AND HEARINGS

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

AP2 25/7 EXCLUSION OF PRESS AND PUBLIC

There were no items considered in private.

The meeting ended at 11.05 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

OB1O6D 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 (application suffix) PD – shops and financial to restaurant
PDVSR	Permitted development (application suffix) PD – shop and sui generis to residential
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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East Malling And Larkfield
East Malling West Malling
And Offham

19 February 2025

TM/22/01570/OA

Location: Land North East and South of 161 Wateringbury Road.

Proposal: Outline Application: All matters reserved except for access for the erection of up to 52 residential dwellings, including affordable housing, open space and landscaping, roads, parking, drainage and earthworks. New access to be formed from Wateringbury Road

Go to: [Recommendation](#)

1. Introduction:

- 1.1 Determination of this application was deferred on 15 January 2025 to allow for legal services to provide the committee with a report setting out the risks involved should the recommendation of officers to grant planning permission subject to conditions not being accepted, and planning permission refused.
- 1.2 This is in line with the Council's Constitution which sets out as follows:
- 1.3 If, contrary to a recommendation of the Director of Planning, Housing & Environmental Health, an Area Planning Committee is minded to determine an application in a way or on grounds which the Director does not consider can be substantiated, the application shall stand adjourned to the next meeting of the committee to enable the Director of Central Services and Monitoring Officer to submit a report on the possibility of costs or compensation being awarded against the Council in the event that the application is determined in that way.
- 1.4 If the Director of Central Services and Monitoring Officer's report indicates that there is likely to be a significant risk of costs being awarded against the Council at any appeal, or a potential liability to pay compensation, the committee may not determine the application in a manner contrary to the advice set out in the report, and a resolution by the committee to make such a determination will be a recommendation only and the application shall stand adjourned to Council for determination.
- 1.5 The January 2025 committee report can be found at Annex 1 with its associated supplementary report at Annex 2. The original report and its associated appendices from the September 2024 committee can be found at Annex 3. The report of the Director of Central Services and Monitoring Officer is contained within Part 2 of the agenda. This report should be read as a whole with both of those documents.

2. Recommendation:

- 2.1 **Approve Planning Permission** subject to:

2.2 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)

General medical practice services (NHS ICB)

2.3 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:

Site Location Plan 21.094-01

Access Proposals 16082-H-01 rev p6

Improvement Works to Watlingbury Road 16082-H-04 Rev P2

Improvement Works to Watlingbury Road 16082-H-05 Rev P2

Proposed Parameter Plan 21.094-50 Rev B

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. No development, other than the demolition of any buildings, removal of hardstanding, ground investigations or site survey works, shall be carried out until details of the proposed car charging points have been submitted to, and approved by the Local Planning Authority. The charging points shall be installed prior to the first occupation of the development, and thereafter maintained and retained in accordance with the approved details.

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

8. The access drive shall be constructed no steeper than 1 in 10 for the first 1.5 metres from the highway boundary and no steeper than 1 in 8 thereafter.

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

9. The access shall not be used until the visibility splays shown on the submitted plans (drawing number: H-01 Rev P6 titled 'Access Proposal') with no obstructions over

0.6 metres above carriageway level within the splays have been provided. The vision splay so created shall be retained at all times thereafter.

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

10. No part of the development shall be occupied prior to the completion of the highways works indicated on drg. no. H-01 Rev P6 'Access Proposal' being completed by the applicant via S278/S38 Agreements and retained thereafter.

Reason: To ensure appropriate delivery of highway improvements required for the development.

11. Prior the commencement of any phase or sub-phase of the development a Construction Management Plan shall be submitted to the Local Planning Authority and approved in writing. The Plan shall 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

12. No development shall take place until the details required by Condition 1 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.

13. Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon reviewed the Flood Risk Assessment dated June 2022 prepared by DHA. The submission shall also demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of within the site without increase to flood risk on or off-site.

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

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

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

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

14. No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate 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, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of the National Planning Policy Framework.

15. 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

16. Prior to commencement of development the applicant, or their agents or successors in title, will secure the implementation of
- i archaeological landscape works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
 - ii following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological landscape remains and/or further

archaeological landscape investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority

Reason: To ensure that features of archaeological landscape interest are properly examined and recorded and that due regard is had to the preservation in situ of important archaeological landscape remains and where possible the integration of key landscape features in the detailed masterplan and landscape design.

17. Prior to the commencement of development the applicant, or their agents or successors in title, will secure:

- 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;
- iii programme of post excavation assessment and publication.

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

Contamination

18. No development shall take place other than as required as part of any relevant approved site investigation works until the following have been submitted to and approved by the Local Planning Authority:

a) results of the site investigations (including any necessary intrusive investigations) and a risk assessment of the degree and nature of any contamination on site and the impact on human health, controlled waters and the wider environment. These results shall include a detailed remediation method statement informed by the site investigation results and associated risk assessment, which details how the site will be made suitable for its approved end use through removal or mitigation measures. The method statement must include details of all works to be undertaken, proposed remediation objectives, remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site cannot be determined as Contaminated Land as defined under Part 2A of the Environmental Protection Act 1990 (or as otherwise amended).

The submitted scheme shall include details of arrangements for responding to any discovery of unforeseen contamination during the undertaking hereby permitted. Such arrangements shall include a requirement to notify the Local Planning Authority in writing of the presence of any such unforeseen contamination along with a timetable of works to be undertaken to make the site suitable for its approved end use.

(b) prior to the commencement of the development the relevant approved remediation scheme shall be carried out as approved. The Local Planning Authority

should be given a minimum of two weeks written notification of the commencement of the remediation scheme works.

Reason: In the interests of amenity, public safety and human health and in accordance with paragraph 174 of the National Planning Policy Framework (2023).

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

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

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

Reason: In the interests of amenity, public safety and human health and in accordance with paragraph 174 of the National Planning Policy Framework (2023).

20. 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.

21. 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 and landscaping

22. 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.

23. 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.

24. The development hereby approved shall be carried out in such a manner that all trees are protected in accordance with the recommendations within BS 5837 – Trees in relation to design, demolition and construction.

Reason: In the interests of good horticultural practice.

Biodiversity

25. 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)

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

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

27. With the first detailed application, a Landscape and Ecological Management Plan (LEMP) will be submitted to, and be approved by, the local planning authority. The content of the LEMP will be based on the Defra Biodiversity Net-Gain metric calculations and include the following.
- Full Defra biodiversity net-gain calculations;
 - Description and evaluation of features to be created and managed;
 - Ecological trends and 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;
 - Details of the body or organisation responsible for implementation of the plan, and;
 - Ongoing monitoring and remedial measures.

The LEMP shall also 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: 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.

28. Prior to the first occupation of the residential development, the buffer zone illustrated on plan reference Ivy Farm Parameter Plan (Ref 21.094-50- Rev B) shall be defined and clearly laid out for the intended purpose of creating an ecological/landscape buffer zone. The final appearance of the buffer shall be subject to the written approval by the Local planning authority in accordance with the Landscape and Ecological Management Plan subject of condition 27 of this outline planning approval.

Reason: to retain connectivity for animals such as the badger and other species.

Other Material Matters

29. Prior to the first occupation of the development hereby approved, a noise report detailing the current noise climate at the proposed site due to the close proximity of Watlington Road. The report should consider the levels cited in BS8233:2014, namely:

1. for gardens and other outdoor spaces, in particular those in para 7.7.3.2 which states a desirable limit of 50dB LAeq,16-hour, and a maximum upper limit of 55dB LAeq,16-hour; and

2. to at least secure 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 (ref para 7.7.2). Particular attention is drawn to the notes accompanying Table 4 in para 7.7.2 and that these levels need to be achieved with windows at least partially open, unless satisfactory alternative means of ventilation is to be provided.

The Applicant's attention is also drawn to the ProPG on Planning and Noise issued by the Association of Noise Consultants (ANC), the Institute of Acoustics (IoA) & the Chartered Institute of Environmental Health (CIEH).

The report should also detail any mitigation/attenuation measure needed to attain the abovementioned levels. It is important that the applicant's noise assessment includes specific data and we will require these details for approval before any decision can be made. Specific details of any necessary noise insulation/attenuation requirements (e.g. acoustic glazing, acoustically screened mechanical ventilation, etc) will also need to be submitted for approval.

Reason: To safeguard the aural amenity of the occupiers of the dwellings hereby approved.

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 global competitiveness.

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.

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.

33. As close as practicable and no earlier than three months prior to commencement of development, an additional badger survey report shall be submitted to and approved in writing by the Local Planning Authority. Should the position, in so far as it relates to badgers, have changed from that originally reported when the application was submitted, the new survey report should incorporate a revised badger mitigation plan.

Reason: To ensure appropriate mitigation

34. Prior to first occupation/use of the site, a report prepared by an appropriately qualified and experienced ecologist demonstrating the implementation of the badger mitigation/ enhancement measures, as set out in the badger survey report, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure appropriate mitigation

Contact: Robin Gilbert

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East Malling And Larkfield
East Malling West Malling
And Offham

15 January 2025

TM/22/01570/OA

Location: Land North East and South of 161 Wateringbury Road.

Proposal: Outline Application: All matters reserved except for access for the erection of up to 52 residential dwellings, including affordable housing, open space and landscaping, roads, parking, drainage and earthworks. New access to be formed from Wateringbury Road

Go to: [Recommendation](#)

1. Introduction:

- 1.1 Members will recall that this application was reported to APC2 on 18 September 2024. At that meeting the planning application was deferred to enable a Conservation and further Case Officer report to be prepared in order to assess the impact of the proposed development on the East Malling Conservation Area and surrounding listed buildings and non-designated heritage assets, with due regard to be given to the East Malling Village Conservation Area Appraisal.
- 1.2 The Conservation Officer and the applicant have now had an opportunity to respond to this request with the findings reported below. The applicant has also taken the opportunity to review the position of the proposed access following the Member discussion on the relationship between it and the adjacent property. As a result of this the applicant has moved the access 4m further south away from the boundary with 51 Wateringbury Road.
- 1.3 It should also be noted that since the application was reported to committee, the application to regularise the garden extension to 51 Wateringbury Road (24/01631/PA) has been approved.
- 1.4 For Members assistance the original committee report is provided as an attachment to this additional report, as well as the previous appendices.

2. Consultees:

- 2.1 East Malling and Larkfield PC: We are concerned that the applicant has proposed a 20 metre buffer from the woodland edge only. This appears not to take account of sett entrances on the site itself. We note from the West Kent Badger group report and photographic evidence submitted by members of the public that there are sett entrances within the orchard which encroach into the stated buffer zone. This means the 20-metre buffer stated by the applicant is in effect much less than stated.

Although Natural England themselves may not specify a buffer size in their guidance, we understand that it is the accepted standard by ecologists in England that 30 metres is allowed around badger setts to protect them and this is noted in the attached email from the KCC Ecologist to TMBC officers.

We note that the West Kent Badger group Report who we understand surveyed the sett in the woodland with the landowners permission have stated the following: The sett on the north-east edge of the site appears to be significant and entrance holes are both in the adjacent woodland and on the site itself (i.e. in the orchard) – approximately 6.5 metres from the site boundary. The proposed 20m ecological buffer in the north-east of the site will not be sufficient to protect the badger sett in this locality. A minimum of 30 metres is generally recommended.

Given the potential impact on the badger setts from this development, and significant loss of foraging habitat, we are not convinced that it would meet the following policies of the NPPF (2021) Paragraph 180 which states the following: *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.*

This paragraph is additionally mirrored in Natural England's standing advice to Local Planning Authorities for badgers as part of a collection of standing advice for protected species, which also states that avoidance should be the priority over lesser mitigations. Given that this site is in effect a blank canvas, it is not clear why avoidance cannot be achieved in line with the NPPF.

We note that the planning applicant has stated in their latest submission that Natural England have raised no objections against the proposed badger mitigation plan, but we have had sight of correspondence from Natural England confirming that this is not the case.

Given that the sett on the site has been criminally interfered with and a police investigation undertaken, we would urge that if this planning application is approved that suitable conditions are set to protect the sett from further interference.

The Parish Council awaits to see any highway comments from KCC as to this change. However, as previously pointed out the orchard is at a lower level than Watlington Road which is about 1.5m higher. The edge of the pavement is indeed marked at its back edge with sandbags to mitigate the pavement falling into the orchard. These were placed in position by KCC Highways.

The site lines required would mean further trees along this boundary being removed. The Parish Council remains concerned due to the above difference in levels of the impact in terms of privacy and overlooking on No. 181 including their back garden. Also from headlights of vehicles using the new access shining into the windows of that property.

-
- 2.2 Waterringbury PC: Waterringbury PC strongly object as previously objected to by WPC, Teston PC and East Malling and Larkfield PC to build up to 52 houses for all the same reasons mentioned in the responses submitted in 2022 as they all still stand as valid objections
 - 2.3 Historic England: On the basis of the further information, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.
 - 2.4 Kent Highway Services: Note that a revised access plan has been submitted, which relocates the access 4 meters south of where it was previously proposed to locate it. No other amendments are proposed to the access strategy. I can therefore confirm that this authority's position remains as set out in the response of 4th July 2023.
 - 2.5 Environment Agency: We have assessed this application as having a low environmental risk. We therefore have no comments to make.
 - 2.6 KCC LLFA: We have no further comment to make on this proposal and would refer you to our previous response dated 11th August 2022
 - 2.7 Natural England: Comments awaited.
 - 2.8 Environmental Health: No objections.
 - 2.9 West Kent Badger Group: Thank you very much for letting us know about the Badger Technical Note in relation to this development.

I have attached a copy of our previous comments where we asked if the access road could be moved a bit further south, should the development go ahead. This would mean the northern part of the site was not disturbed giving the badgers more protection and retaining some of their foraging habitat. It would also be beneficial for the bats recoded on site. We would still like this to be considered, rather than a licence obtained to undertake work within 20m of the sett.

The Technical Note says under the completed scheme, the sett will be retained within an ecological / landscape buffer. It would be helpful to know the size or nature of the buffer.

- 2.10 Conservation Officer: I have reviewed the application and the conservation area appraisal. I have also reviewed the heritage consultants responses to the queries raised at committee.

I would note that I in general agree with the additional submissions from the applicant's heritage consultant. Where there is a slight difference in the assessment it would not impact the overall conclusions.

The conservation area appraisal is 20 years old and the village has seen only limited change over that time. The boundary is drawn very tightly to the historic buildings

within the village, deliberately excluding more modern development. The tone of the appraisal is inward looking and deals almost exclusively with the buildings within the boundary area. There are few references to setting or views out of the conservation area. The comments regarding views tend to be long distance views of the surrounding landscape rather than more intimate views. The conservation area also concentrates on the historic structures located on the ridges along which the village originally expanded and this aspect of development is important to the character of the conservation area. In general the character appraisal does not give any reasonable assessment of the setting of the conservation area and there is very limited information on which an objection on grounds based on impact on setting could reasonably be made. The references that were picked up are not strictly impacts on setting but impacts on views (views to the distant landscape features to the south), or the reference interpretation has been broadened to include farms beyond the boundary which is not a clear intention within the appraisal which discusses farms within the boundary.

The assessment of what constitutes the setting of the conservation area needs to be made anew. Historically the setting of the conservation area was an agricultural landscape concentrated in the areas below the ridges. The expansion of the village in the 20th century has to a degree pushed that agricultural landscape away from the conservation areas boundary on almost every side. While this is limited towards the south it has none the less occurred. However, the overall sense to the south remains that of a rural landscape and the proposal will impact that perception.

The applicant's original assessment does acknowledge that there is an impact to the agricultural landscape from the loss of the rural landscape and this should be acknowledged as an impact on the setting of the conservation area which the applicant's heritage consultants have done. The impact on setting is not considered to be high and I agree with the consultant's identification of the level of harm. Given there is a level of less than substantial harm, there needs to be a judgement balancing that harm against public benefit. This is not a heritage matter but a planning matter and I am lead to understand the officers report covered these matters from a planning perspective.

2.11 Private Reps: 33 additional objections raising similar comments to those originally listed and raising the following additional points:-

- Do not consider that the East Malling Conservation Area Appraisal is superseded by the NPPF and therefore it is wrong to say that the development will not have an impact on the setting of the Conservation Area.
- High volume housing estate is at odds with the setting of the Conservation Area
- The badger mitigation measures are questioned as there are sett entrances within the orchard as well as the woodland.
- Question responses from Natural England.

- Relocated access would not reduce impact on the neighbouring property and would not retain the private right of access to maintain the boundary.

3. Determining Issues:

- 3.1 The planning considerations are as set out in the original report. This report considers the Heritage matters raised at the previous meeting and also the amendments to the site access submitted by the applicant.
- 3.2 The development has been assessed against the East Malling Conservation Area Appraisal. This document was published in 2004 and the development has been assessed against it by the Conservation Officer.
- 3.3 The assessment by the Conservation Officer considers that whilst the document is approximately 20 years old there have been little changes within the Conservation Area itself as the boundary is very tightly drawn to the historic buildings within the village, deliberately excluding more modern development. The tone of the appraisal is inward looking and deals almost exclusively with the buildings within the boundary area. There are few references to setting or views out of the conservation area.
- 3.4 The comments regarding views tend to be long distance views of the surrounding landscape rather than more close-range views. The conservation area also concentrates on the historic structures located on the ridges along which the village originally expanded and this aspect of development is important to the character of the conservation area.
- 3.5 The development site is on the downward slope away from the conservation area boundary. In general, the character appraisal does not give any reasonable assessment of the wider setting of the conservation area. The consideration of the setting of the Conservation Area in the appraisal only includes reference to views to the south and not specifics regarding the setting.
- 3.6 The conservation area as a whole is surrounded by 20th century development that has deliberately been left out of the designation, and this 20th century development has separated the surrounding agricultural land from the setting of the conservation area in general on all sides.
- 3.7 Overall, when considering the content of the Conservation Area Appraisal and the impact of the proposed development on setting of the conservation area, the Conservation Officer does not consider the level of harm to be high and they agree with the applicant's consultant's identification of the level of harm. In conclusion, following the further assessment undertaken it is considered that the level of harm to the conservation area would be less than substantial, as set out in the original report and there is very limited information on which an objection on grounds based on impact on setting could not reasonably be made.

- 3.8 This conclusion mirrors the original assessment undertaken under Paragraph 11 of the NPPF 2023. The recently published NPPF 2024 does not change the requirements for the presumption in favour of sustainable development. With the NPPF tests regarding harm being met the presumption in favour of sustainable development set out at paragraph 11 (d) (ii) re-emerges and needs to be applied. The original assessment that was undertaken within the context of the tilted planning balance is therefore still valid.
- 3.9 The recently published NPPF 2024 does not bring in any fundamental changes to policy that relate to the specifics of this proposal. The standard methodology for calculating five-year housing land supply has though been changed. The recently published calculation which reduced the overall supply figure down to 3.97 years is likely to drop further due to the Governments change in calculation and consequent increase in housing numbers for the borough from 820 to 1096 per annum. The development of the 52 dwellings proposed would therefore go towards increasing the five year supply and meeting the increased housing required.
- 3.10 With regard to other matters, the applicant has considered the discussion at the previous meeting and moved the proposed access 4m to the south of its previous position. The alteration to the position of the access increases the separation to the boundary of the neighbouring property to 9.6m. This enables greater space to be provided for screening to the neighbouring property. The additional space would also ensure that the right of access can be retained. This is though a private matter that is not a planning consideration.
- 3.11 The garden extension at no. 51 Watringbury Road has now been regularised through the approval of application 24/01631/PA. The presence of the garden has to be taken into consideration in the determination of the application. The movement of the access to the south away from the shared boundary has increased the amount of space available for landscaping within the site. It is acknowledged that the site is lower than Watringbury Road at the point the access is proposed, however the presence of the existing boundary planting and the increased opportunity for landscaping arising from the revised access position would ensure that there would be no adverse impact as a result of overlooking from the new access into the neighbouring property. Similarly, the ability to provide landscaping along the northern boundary of the site would minimise the potential for a loss of privacy to the neighbouring property.
- 3.12 The revised position of the access is acceptable in both highways and landscaping terms. The alterations do not alter the ecological buffer zone proposed. Additional information has also been received regarding the presence of badgers on the site. The information supports the previous position that the development would not have an adverse impact on protected species.
- 3.13 In conclusion, as set out in the original report, 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.

- 3.14 The proposed development would provide a policy compliant development of up to 52 residential dwellings. It would also provide 40% affordable housing on-site which would contribute to addressing a recognised need for affordable housing in the Borough.
- 3.15 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.
- 3.16 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.

4. Recommendation:

4.1 Approve Planning Permission subject to:

4.2 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)

General medical practice services (NHS ICB)

4.3 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:

Site Location Plan 21.094-01

Access Proposals 16082-H-01 rev p6

Improvement Works to Watlingbury Road 16082-H-04 Rev P2

Improvement Works to Watlingbury Road 16082-H-05 Rev P2

Proposed Parameter Plan 21.094-50 Rev B

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. No development, other than the demolition of any buildings, removal of hardstanding, ground investigations or site survey works, shall be carried out until details of the proposed car charging points have been submitted to, and approved by the Local Planning Authority. The charging points shall be installed prior to the first occupation of the development, and thereafter maintained and retained in accordance with the approved details.

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

8. The access drive shall be constructed no steeper than 1 in 10 for the first 1.5 metres from the highway boundary and no steeper than 1 in 8 thereafter.

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

9. The access shall not be used until the visibility splays shown on the submitted plans (drawing number: H-01 Rev P6 titled 'Access Proposal') with no obstructions over 0.6 metres above carriageway level within the splays have been provided. The vision splay so created shall be retained at all times thereafter.

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

10. No part of the development shall be occupied prior to the completion of the highways works indicated on drg. no. H-01 Rev P6 'Access Proposal' being completed by the applicant via S278/S38 Agreements and retained thereafter.

Reason: To ensure appropriate delivery of highway improvements required for the development.

11. Prior the commencement of any phase or sub-phase of the development a Construction Management Plan shall be submitted to the Local Planning Authority and approved in writing. The Plan shall 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

12. No development shall take place until the details required by Condition 1 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.

13. Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon reviewed the Flood Risk Assessment dated June 2022 prepared by DHA. The submission shall also demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of within the site without increase to flood risk on or off-site.

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

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

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

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

14. No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate 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, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of the National Planning Policy Framework.

15. 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

16. Prior to commencement of development the applicant, or their agents or successors in title, will secure the implementation of
- i archaeological landscape works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
 - ii following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological landscape remains and/or further archaeological landscape investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority

Reason: To ensure that features of archaeological landscape interest are properly examined and recorded and that due regard is had to the preservation in situ of important archaeological landscape remains and where possible the integration of key landscape features in the detailed masterplan and landscape design.

17. Prior to the commencement of development the applicant, or their agents or successors in title, will secure:
- 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;
 - iii programme of post excavation assessment and publication.

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

Contamination

18. No development shall take place other than as required as part of any relevant approved site investigation works until the following have been submitted to and approved by the Local Planning Authority:

a) results of the site investigations (including any necessary intrusive investigations) and a risk assessment of the degree and nature of any contamination on site and the impact on human health, controlled waters and the wider environment. These results shall include a detailed remediation method statement informed by the site investigation results and associated risk assessment, which details how the site will be made suitable for its approved end use through removal or mitigation measures. The method statement must include details of all works to be undertaken, proposed remediation objectives, remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site cannot be determined as Contaminated Land as defined under Part 2A of the Environmental Protection Act 1990 (or as otherwise amended).

The submitted scheme shall include details of arrangements for responding to any discovery of unforeseen contamination during the undertaking hereby permitted. Such arrangements shall include a requirement to notify the Local Planning Authority in writing of the presence of any such unforeseen contamination along with a timetable of works to be undertaken to make the site suitable for its approved end use.

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

Reason: In the interests of amenity, public safety and human health and in accordance with paragraph 174 of the National Planning Policy Framework (2023).

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

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

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

Reason: In the interests of amenity, public safety and human health and in accordance with paragraph 174 of the National Planning Policy Framework (2023).

20. 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.

21. 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 and landscaping

22. 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.

23. 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.

24. The development hereby approved shall be carried out in such a manner that all trees are protected in accordance with the recommendations within BS 5837 – Trees in relation to design, demolition and construction.

Reason: In the interests of good horticultural practice.

Biodiversity

25. 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)

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

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

27. With the first detailed application, a Landscape and Ecological Management Plan (LEMP) will be submitted to, and be approved by, the local planning authority. The content of the LEMP will be based on the Defra Biodiversity Net-Gain metric calculations and include the following.
- Full Defra biodiversity net-gain calculations;
 - Description and evaluation of features to be created and managed;
 - Ecological trends and 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;

- Details of the body or organisation responsible for implementation of the plan, and;
- Ongoing monitoring and remedial measures.

The LEMP shall also 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: 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.

28. Prior to the first occupation of the residential development, the buffer zone illustrated on plan reference Ivy Farm Parameter Plan (Ref 21.094-50- Rev B) shall be defined and clearly laid out for the intended purpose of creating an ecological/landscape buffer zone. The final appearance of the buffer shall be subject to the written approval by the Local planning authority in accordance with the Landscape and Ecological Management Plan subject of condition 27 of this outline planning approval.

Reason: to retain connectivity for animals such as the badger and other species.

Other Material Matters

29. Prior to the first occupation of the development hereby approved, a noise report detailing the current noise climate at the proposed site due to the close proximity of Watlington Road. The report should consider the levels cited in BS8233:2014, namely:

1. for gardens and other outdoor spaces, in particular those in para 7.7.3.2 which states a desirable limit of 50dB LAeq,16-hour, and a maximum upper limit of 55dB LAeq,16-hour; and
2. to at least secure 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 (ref para 7.7.2). Particular attention is drawn to the notes accompanying Table 4 in para 7.7.2 and that these levels need to be achieved with windows at least partially open, unless satisfactory alternative means of ventilation is to be provided.

The Applicant's attention is also drawn to the ProPG on Planning and Noise issued by the Association of Noise Consultants (ANC), the Institute of Acoustics (IoA) & the Chartered Institute of Environmental Health (CIEH).

The report should also detail any mitigation/attenuation measure needed to attain the abovementioned levels. It is important that the applicant's noise assessment includes specific data and we will require these details for approval before any decision can be made. Specific details of any necessary noise

insulation/attenuation requirements (e.g. acoustic glazing, acoustically screened mechanical ventilation, etc) will also need to be submitted for approval.

Reason: To safeguard the aural amenity of the occupiers of the dwellings hereby approved.

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 global competitiveness.

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.

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.

33. As close as practicable and no earlier than three months prior to commencement of development, an additional badger survey report shall be submitted to and approved in writing by the Local Planning Authority. Should the position, in so far as it relates to badgers, have changed from that originally reported when the application was submitted, the new survey report should incorporate a revised badger mitigation plan.

Reason: To ensure appropriate mitigation

34. Prior to first occupation/use of the site, a report prepared by an appropriately qualified and experienced ecologist demonstrating the implementation of the badger mitigation/ enhancement measures, as set out in the badger survey report, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure appropriate mitigation

Contact: Robin Gilbert

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SUPPLEMENTARY REPORTS

AREA 2 PLANNING COMMITTEE

DATED 15th January 2025

East Malling, West Malling and Offham**TM/22/01570**

East Malling

Location: Land north, east and south of 161 Wateringbury Road East Malling**Proposal:** Outline Application: All matters reserved except for access for the erection of up to 52 residential dwellings, including affordable housing, open space and landscaping, roads, parking, drainage and earthworks. New access to be formed from Wateringbury Road.

East Malling and Larkfield PC: An Objection Statement (OS) has been submitted on behalf of the East Malling and Larkfield Parish Council. The full body of this document is attached at Appendix 1 of this supplementary report. In summary the report sets out the following:

The principal grounds for objection relate to the following: the failure of the applicant to undertake a sufficiently robust assessment of how setting contributes to the significance of identified heritage assets in the way and degree required by National and Local legislation which led to the conclusion that no harm would be caused to Ivy farmhouse and barn, 122 Chapel Street and the NDHA farmstead at 161 Wateringbury Road; the failure of the applicant to consider the direct impact of the development on the character and appearance of the East Malling Conservation Area, and the failure of the applicant to consider the cumulative impact of the proposed scheme in addition to other recent approved large housing schemes on the significance of the East Malling Conservation Area as a result of significantly increased traffic.

No mitigation measures have been provided by the applicant to protect the conservation area from being overwhelmed by the additional noise, smells, vibrations and visual impact caused by the significant traffic that will be generated by the scheme.

This OS concludes that despite the local planning authority not being able to demonstrate a sufficient supply of deliverable housing sites, that section 11(dii) of the NPPF will not apply as the proposal will result in unjustified harm to designated and non-designated heritage assets, contrary to local and national policy.

Ditton PC: Ditton Parish Council wishes to give its objections to this application and fully supports the comments and objections submitted by East Malling and Larkfield Parish Council. In particular the concerns of the increased traffic impact on High Street and Mill Street and also the detrimental effect this development would have on the Conservation Area and Heritage Assets of the area.

Conservation Officer: Comments provided in full at Appendix 2 of this document.

KCC Heritage: (These comments are provided in full having been summarised in the original report)

The site of proposed development lies south of the historic village of East Malling which may have Roman origins as a settlement, with the Scheduled Roman villa east of the village core. East Malling may have been an Early Medieval community and still reflects much of its Medieval heritage. A sister Medieval hamlet of The Rocks lies to the east of East Malling spreading along one of the main routeways. There has been Post Medieval and Modern development but this village is still surrounded by a rural and horticultural landscape of dispersed Post Medieval farms within open, linear fields and a mosaic of footpaths and narrow lanes.

Due to the rural nature of the terrain of the development site, there has been little formal archaeological investigation to inform the HER. Although there are no known HER sites within the application site, this area does have potential for Early Prehistoric and Later Prehistoric occupation. Prehistoric and Roman archaeological sites and findspots are known in the surrounding fields.

I note this application is supported by an Archaeological DBA and a Heritage Statement by HCUK, and there is a brief section in the Planning Statement on heritage. These assessments do seem to provide a reasonable account of heritage and archaeological issues.

I do have concerns over the density and number of housing proposed. The number of proposed dwellings is contrary to the historic landscape character of dispersed farms within open, linear fields. I also have concerns regarding the impact of increased traffic on the Medieval village of East Malling. I recommend consideration of the District Conservation Officers comments on East Malling village.

With regard to archaeology and archaeological landscapes, concerns can be addressed through conditions and I recommend the following conditions are placed on any forthcoming consent:

1 Prior to commencement of development the applicant, or their agents or successors in title, will secure the implementation of
i archaeological landscape works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and

ii following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological landscape remains and/or further archaeological landscape investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological landscape interest are properly examined and recorded and that due regard is had to the preservation in situ of important archaeological landscape remains and where possible the integration of key landscape features in the detailed masterplan and landscape design.

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

- 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;
- iii programme of post excavation assessment and publication.

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

Private Reps: 6 Further objections received to the development reiterating the objections previously listed in both the original and current report relating to wildlife, traffic and impact on the Conservation Area.

DPHEH:

The National Planning Policy Framework (NPPF) was revised in response to the Proposed reforms to the National Planning Policy Framework and other changes to the Planning system consultation and published on 12 December 2024. It sets out the government's planning policies for England and how these are expected to be applied. This revised framework replaces the previous 2023 NPPF.

The new planning framework updates requirements on various planning issues including introducing mandatory housing targets for councils. Further detail on this will be presented to HPSSC on 12th February 2025.

The now current position (which updates our recently published position as of October 2024, under the previous NPPF) is a 2.89 years housing supply, based upon the housing need of 1,096 dpa plus a 20% buffer, against the requirements of the NPPF December 2024. This means that the council has a shortfall and is not able to demonstrate the five-year housing land supply requirement.

In response to the Objection Statement submitted on behalf of East Malling and Larkfield PC it should be noted that this is not an independent assessment as it is particularly written to object to the development. The conclusion of this report does though agree with the view in the report that there is less than substantial harm to heritage and non-designated heritage assets. The Objection Report however deviates from the Officer report in that it concludes substantial harm to the Conservation area, through change to setting and also direct impact from traffic.

As noted in the Officer report, the Conservation Officer does not agree with the level of harm being attributed to the change to the setting of the Conservation Area. It should also be noted that the development proposed cannot result in a direct impact on the Conservation Area as Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is clear that a direct harm can only result from development within a Conservation Area. Therefore, as the development is outside the Conservation Area, temporary changes to environment, such as increase in traffic, noise etc cannot be considered a direct impact as there is no direct and permanent change to the conservation area itself.

On this basis it is considered that there is no justified reason to deviate from the assessment in the Officer report on the impact on the Conservation Area.

The submission of additional comments from residents regarding badgers on the site is noted however this does not alter the position in the Officer report regarding the suitability of the proposed ecological buffer zone.

MY RECOMMENDATION REMAINS UNCHANGED

**East Malling West Malling And Offham,
Birling Leybourne And Ryarsh****TM/23/03241**

East Malling And Larkfield, West Malling,
Leybourne

Location: DEVELOPMENT SITE LAND WEST OF Winterfield Lane, East Malling,
West Malling

Proposal: S73 Application to vary planning condition 11 (Access plans) to
TM/19/01814/OA Outline Application: Erection of up to 250 new homes
(40% affordable), new community building, provision of a new country park
and other areas of public open spaces, areas of play, upgrade of existing
footpaths, together with new vehicular access onto London Road and
associated parking and landscaping.

DPHEH: It is considered that upon reflection the wording of condition 9 should be expanded to provide additional details and monitoring of the proposed woodland management plan. Revised wording of this condition is therefore proposed. As the application is effectively amending a previously approved development there is a need to link the previously approved legal agreement to the current application. This can be achieved through the submission a Deed of Variation.

AMEND RECOMMENDATION:

The applicant to vary the legal agreement by Deed of Variation to link this application back to the original S106; and

Amend the wording of condition 9 as follows:-

9 The strategy contained in the Woodland Management Plan SJA WMR + APPs 24456-01a hereby approved shall be fully implemented in accordance with the schedule. Within one month of this decision an accurate scalable plan confirming the full extent of the area covered by the Woodland Management Plan shall be submitted to the Local Planning Authority for written agreement. Prior to the implementation of the specified tree works operations set out in the Management Schedule hereby approved 14 days written notice shall be given to the Local Planning Authority of the dates when the approved tree works are to be undertaken. Management reports will be submitted to the Local Planning Authority at the end of years 1,3, 5 and 10 to detail the management actions undertaken and when such

actions are to be undertaken. The management plan shall be reviewed alongside the submission of the reports and shall be amended with the agreement of the Local Planning Authority at these stages if considered necessary.

Reason: In the interests of good horticultural practices.

APPENDIX 1: Objection Statement submitted on behalf of East Malling and Larkfield PC



Objection Statement

OBJECTION TO A NEW DEVELOPMENT OF 52 HOMES ON LAND TO THE EAST OF WATERINGBURY ROAD, EAST MALLING

Project Ref: FL12262

Written By: Virginia Gillece IHBC, MRICS

Date:
January
2024

e: hello@fullerlong.com





1 EXECUTIVE SUMMARY

- 1.1.1. The proposed development on land to the east of Wateringbury Road in East Malling will result in a permanent change to the landscape and setting of the village and its heritage assets. Whilst it is accepted that change does not necessarily equate to harm, this OS contends that less than substantial harm will be caused to the settings of all of the heritage assets identified.
- 1.1.2. In addition, it is contended that the proposed development will equate to substantial harm as a result of the direct impact to the character and appearance of the conservation area.
- 1.1.3. The following is an Objection Statement (OS) commissioned on behalf of the East Malling and Larkfield Parish Council.
- 1.1.4. The principal grounds for objection relate to the following: the failure of the applicant to undertake a sufficiently robust assessment of how setting contributes to the significance of identified heritage assets in the way and degree required by National and Local legislation which led to the conclusion that no harm would be caused to Ivy farmhouse and barn, 122 Chapel Street and the NDHA farmstead at 161 Wateringbury Road; the failure of the applicant to consider the direct impact of the development on the character and appearance of the East Malling Conservation Area, and the failure of the applicant to consider the cumulative impact of the proposed scheme in addition to other recent approved large housing schemes on the significance of the East Malling Conservation Area as a result of significantly increased traffic.
- 1.1.5. No mitigation measures have been provided by the applicant to protect the conservation area from being overwhelmed by the additional noise, smells, vibrations and visual impact caused by the significant traffic that will be generated by the scheme.
- 1.1.6. This OS concludes that despite the local planning authority not being able to demonstrate a sufficient supply of deliverable housing sites, that section 11(dii) of the NPPF will not apply as the proposal will result in unjustified harm to designated and non-designated heritage assets, contrary to local and national policy



2 INTRODUCTION

- 2.1.1. This Objection Statement (OS) has been prepared by Virginia Gillece of HEA on behalf of the East Malling and Larkfield parish council.
- 1.1.1. Virginia Gillece is a Chartered Surveyor with a BSc in Land Management and an MSc in Architectural Conservation. She is a full member of the Institute of Historic Buildings Conservation (IHBC) and of the Royal Institute of Chartered Surveyors (RICS). Virginia has worked in the property sector for 30 years and has worked with The National Trust as well as within the private sector as a heritage consultant. She is currently a partner with Fuller Long HEA Planning and Heritage Consultants.
- 2.1.2. The following OS is submitted in relation to 'Land North East And South Of 161 Wateringbury Road, East Malling'. The development is proposed by Esquire Developments and comprises the erection of 52 residential dwellings on land currently used for an orchard immediately to the south of East Malling. A new access to this site is proposed from Wateringbury Road. The site is adjacent to a grade II listed house, and is in close proximity to the East Malling Conservation Area, Ivy Farm and Barn (both grade II listed structures), and a number of non-designated heritage assets (NDHAs).
- 2.1.3. The outline application has provided a Heritage Statement produced by the HCUK Group (2022) which concluded that *that the proposals would preserve the significance of a series of grade II listed buildings (122 Chapel Street, Ivy House Farmhouse and Ivy House Barn) but would result in a low level of less than substantial harm to the East Malling Conservation Area. This Heritage Statement did not identify any non-designated heritage assets, nor did it analyse the impact of the proposed scheme on the increased noise, visual impact and damage to the conservation area as a result of the substantial increase in traffic through the village as a result of the development of 52 new homes.*
- 2.1.4. A subsequent addendum was produced in November 2024 by the HCUK group to assess the impact to the NDHAs at 161 Wateringbury Road and to properly review the character and appearance of the East Malling Conservation Area Appraisal. This addendum highlighted that the conservation area appraisal was out of date and therefore not as valid as might be expected, but concluded that their original assessment of less than substantial harm remained unchanged, concluding that *'the proposals are found to result in some harm to the significance of the East Malling Conservation Area that amounts to a low level of less than substantial harm in NPPF terms. The significance and setting of all other designated heritage assets would be preserved.'*
- 2.1.5. With regards to the farmstead at 161 Wateringbury Road, the heritage addendum assessed the impact to the setting of the NDHAs present at this site to be negligible.
- 2.1.6. This OS will provide an independent assessment of the impact of the proposed scheme on the identified heritage assets



3 RELEVANT LEGISLATION AND PLANNING POLICY

- 3.1.1. The following legislation, policies and guidance are considered material considerations when appraising the impact of the Project.

NPPF (2024)

- 3.1.2. Section 16 of the NPPF, entitled Conserving and enhancing the historic environment provides guidance for planning authorities, property owners, developers and others on the conservation and investigation of heritage assets.
- 3.1.3. Paragraphs 202-211 consider the impact of development proposals upon the significance of designated heritage assets. Paragraph 202 states that where a development is proposed that would affect the significance of a designated heritage asset, great weight should be given to the asset's conservation and that the greater an asset's significance, the greater this weight should be. Paragraph 214 emphasises that where a proposed development will lead to less than substantial harm to the significance of a designated heritage asset, this should be weighed against the public benefits of the scheme, bearing in mind the great weight highlighted in Paragraph 212.

MATERIAL CONSIDERATIONS

National Planning Practice Guidance

- 3.1.4. The NPPG is a web-based resource which is to be used in conjunction with the NPPF. It is aimed at planning professionals and prescribes best practice within the planning sector. The relevant section is entitled 'Conserving and enhancing the historic environment'. The guidance given in this section is effectively a condensed version of the PPS5 Practice Guide and sets out the best practice to applying government policy in the NPPF. It provides an interpretation for each of the interests assigned to heritage assets in understanding its significance; archaeological, architectural and artistic, and historic.
- 3.1.5. For ease of reference the following legislative and policy considerations are considered of particular relevance, and are set out below. Sections underlined are identified as of particular relevance by the author.

The Planning (Listed Buildings and Conservation Areas) Act 1990

- 3.1.6. Section 66 places a responsibility upon the decision maker in determining applications for planning permission for a Scheme that affects a listed building or its setting to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses; and

National Planning Policy Framework (2024)

Section 16.



- 3.1.7. *Para 202. Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites..... These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.*
- 3.1.8. The above paragraph clearly recognises that there is a graduation from those assets of lower to higher significance, based on sites identified as of local historic value and increasing through statutory levels of designation to a WHS at an international level. The emphasis then places a responsibility on the conservation of these assets in a manner appropriate to their 'level' of significance. The lesser or greater that 'significance' the lesser or greater the material weighting it is applicable to apply in decision making. As a general rule, under these circumstances, the concept of significance and the attributes that can be attributed to a relative level of 'significance/ historical value' become increasingly more tightly drawn as the level of recognised significance drops from an international level of significance to a local level of significance.
- 3.1.9. *Para 212. 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.*
- 3.1.10. *Para 213. 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. Substantial harm to or loss of:*
- a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;*
 - b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.*
- 3.1.11. *Para 214. Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss.*
- 3.1.12. *Para 215. 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.*
- 3.1.13. *Para 216. 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.*



- 3.1.14. In determining the effects of the Scheme this OS is also cognisant of case law. Including the below:
- Flag Station, Mansel Lacy, Herefordshire [22/09/2015] Case Number EWHC 2688
- 3.1.15. This ruling has emphasised the primacy of the 1990 Planning Act – and the fact that it is up to the decision makers in the planning system to 'have special regard to the desirability of preserving the [listed] building or its setting'. As stated by HH Judge David Cooke in a judgment of 22 September 2015 regarding the impact on the setting of a listed building:
- 3.1.16. 'It is still plainly the case that it is for the decision taker to assess the nature and degree of harm caused, and in the case of harm to setting rather than directly to a listed building itself, the degree to which the impact on the setting affects the reasons why it is listed.'
- PALMER Appellant and Herefordshire Council and ANR [04/11/16] Case No: C1/2015/3383
- 3.1.17. The judgment was agreed by Lord Justice Lewison at the Court of Appeal, who stated that:
- 3.1.18. 'It is also clear as a matter both of law and planning policy that harm (if it exists) is to be measured against both the scale of the harm and the significance of the heritage asset. Although the statutory duty requires special regard to be paid to the desirability of not harming the setting of a listed building, that cannot mean that any harm, however minor, would necessarily require planning permission to be refused.
- 3.1.19. With regards to non-designated heritage assets the NPPF does not apply the substantial harm test and it is clear that no additional weight is given to non-designated heritage assets but that a balanced judgement will be required with regard to the scale of harm and the significance of the heritage asset.
- 3.1.20. It is noted that setting is not a heritage asset, nor a heritage designation. The importance of setting lies in what it contributes to the significance of a heritage asset or to the ability to appreciate and understand that significance.
- 3.1.21. A recent appeal (Appeal Ref: APP/D1265/W/22/3291668) - Land South of Westleaze, Charminster, Dorset, is also relevant to this OS, and bears many similarities to East Malling. In this case, the planning inspectorate found that a proposed housing development would negatively impact to the setting of a significant grade I gentry courtyard house known as Wolfton House and several other designated heritage assets, causing harm the significance of the assets. The appeal was dismissed.



4 THE SUBJECT SITE AND EAST MALLING: LOCATION AND CONTEXT

- 4.1.1. East Malling is a small historic village located within the Parish of East Malling and Larkfield in the county of Kent, under the administrative boundary of Tonbridge and Malling District Council.
- 4.1.2. The village includes numerous buildings of national importance, including one grade I building, two grade II* buildings and thirty grade II buildings and structures. There is also evidence of an Iron Age enclosure and a Roman religious site which is designated as a scheduled monument. The conservation area has also been in place since 1971, and covers an extensive part of the village (East Malling Conservation Area).
- 4.1.3. The village is bisected by the Maidstone East Railway line running east west. The playing fields and school grounds to the north of the village provide a distinct gap between the historic settlement and a 20th century housing estate to the west of New Road, which also provides access to the A20 and the M20 in the north. To the west, the village extends along Mill Street towards West Malling. This area contains a few historic buildings but was predominantly developed in the 20th century with residential estates and a school. To the east is the world renowned East Malling Research Station, a horticultural and agricultural research site which specialises in crop production, and in particular fruit stock.
- 4.1.4. The village is approached from the south along Watlingbury Road which drops down from East Malling Heath through woodland, orchards and agricultural land before reaching the southernmost reaches of the village at 51 Watlingbury Road on the east side of the road and Ivy House Farmhouse (grade II) on the west side of the road. The subject site is located on the east side of the road, between 51 Watlingbury Road in the south and a cluster of cottages / converted farm buildings known as Ivy Farm, Belvidere Cottage and Belvidere Oast in the north. The subject site is approximately 4.6 hectares in size, sloping gently down south-north and has been historically in agricultural use, associated with the farmsteads on the south side of the village. The surrounding setting is rural in character: a small woodland flanks to site to the northeast corner, but otherwise the site is surrounded by orchards and open farmland on each side of the Watlingbury Road. This provides the historic rural backdrop to on the approach to the south side of the village and the conservation area.



Figure 1. The subject site looking north from 51 Wateringbury Road



Figure 2. The subject site looking west towards 122 Chapel Street (grade II)



Figure 3. the northeast corner of the site looking towards Ivy Farmhouse (grade II)



5 HISTORICAL BACKGROUND

- 5.1.1. This section provides an overview of the subject property and the historical background relevant to an understanding of the property, its site and its historic context and interest. This is based on accessible records. It is not the purpose of this document to create a detailed historical narrative of the area, but to provide an assessment of the subject property and the site's historical development and heritage potential in accordance with the NPPF.

BRIEF OVERVIEW

- 5.1.2. There is evidence of East Malling having been occupied by pre-Roman settlers, the land likely chosen due to its rich soil quality and availability of clean water in the form of a stream originating on the heath above the village. The highly productive arable land provided sustenance and an ongoing livelihood for the village throughout the centuries, with corn being the primary crop before fruit and hops became the dominant choice.
- 5.1.3. The earliest documented reference to East Malling originates from a 942-946 AD charter under the reign of King Edmund I, describing gallows which stood in the then 'East Mealing'. It was later recorded in the Domesday Book of 1086 as 'Mellingete'.
- 5.1.4. The village became further developed as droveways and trackways began to converge on the settlement, a Norman Church later being built to serve the early farmers. With the increased population, wealthier farmsteads began to appear in the land surrounding the village.
- 5.1.5. The agricultural economy remained dominant, although the 17th century saw the introduction of commercial mills, further shaping the character to the west of the village; by the 19th century, several mills were present, specialising in corn, fulling and papermaking. The need for labour to man these mills led to the development of terraced housing in the 18th and 19th centuries within the village.
- 5.1.6. The 1839 Tithe Map illustrates the layout of the village roads and properties, many of which are present today. The subject site is clearly delineated as farmland. A later Ordnance Survey from 1870 partially illustrates the site in more detail, partially planted as orchards. By 1897, a subsequent Ordnance Survey shows that the entirety of the site was now laid down to orchards.
- 5.1.7. Further growth to the village arose as a result of the introduction of the railway between Ashford and London in the late 19th century, with additional terraced properties constructed along the High Street, many with retail units on the ground floor - although most of these have since been converted to residential use.
- 5.1.8. The start of the 20th century saw the village expand to fulfil the needs and requirements of a growing population after WWI. As such, large areas of land were developed which changed the rural nature of the village to the north and west.



5.1.9. By the mid-20th century, Ordnance Survey maps illustrate that the subject site and much of the land surrounding East Malling was used for orchards. Further urban development occurred in the 1960s when more housing was constructed, merging the village and the neighbouring properties of Mill Street into one settlement. The rural nature of the village has consequently been diminished, with only the open countryside to the south now retaining the historic setting of the village.

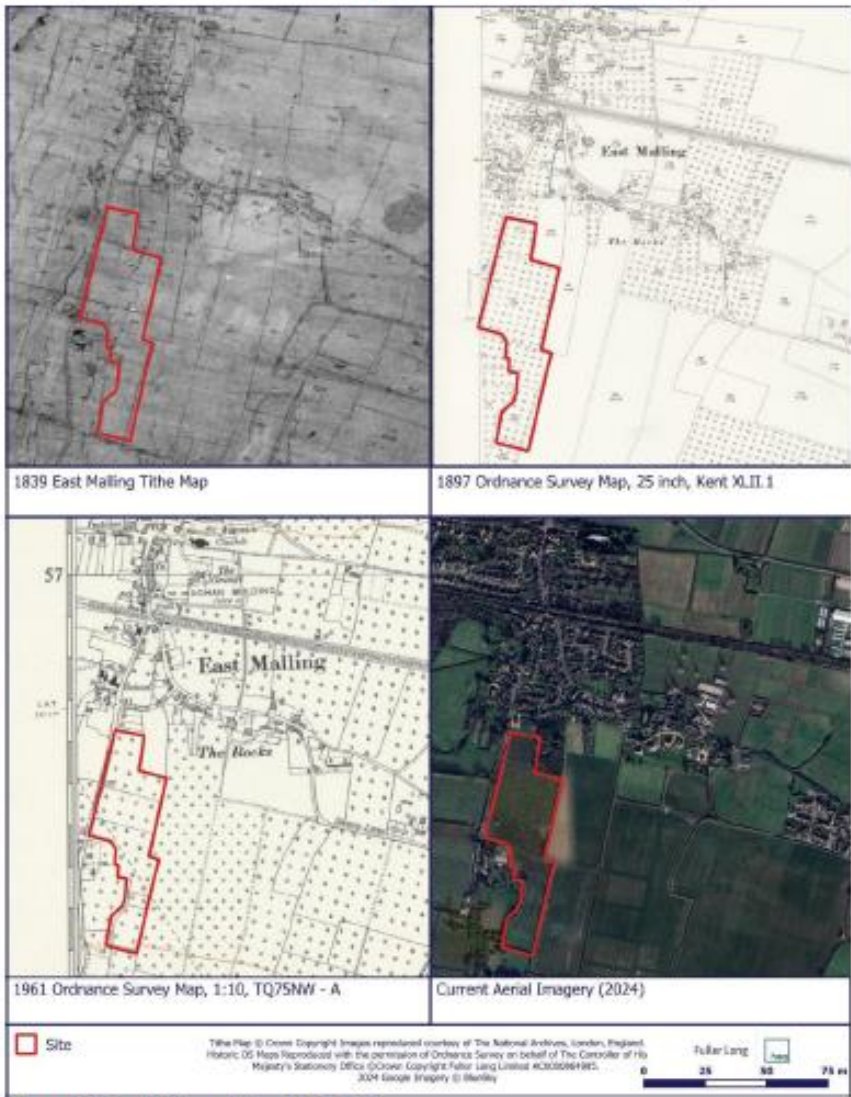


Figure 4. Historic Maps of Site, 1839-2004



6 HERITAGE ASSETS

- 6.1.1. The following section will identify the heritage assets within East Malling that have the potential to be affected by the proposed scheme through a change to the contribution of their setting and through a change of the character of the area.
- 6.1.2. A brief description and assessment of these assets is included within this report below.

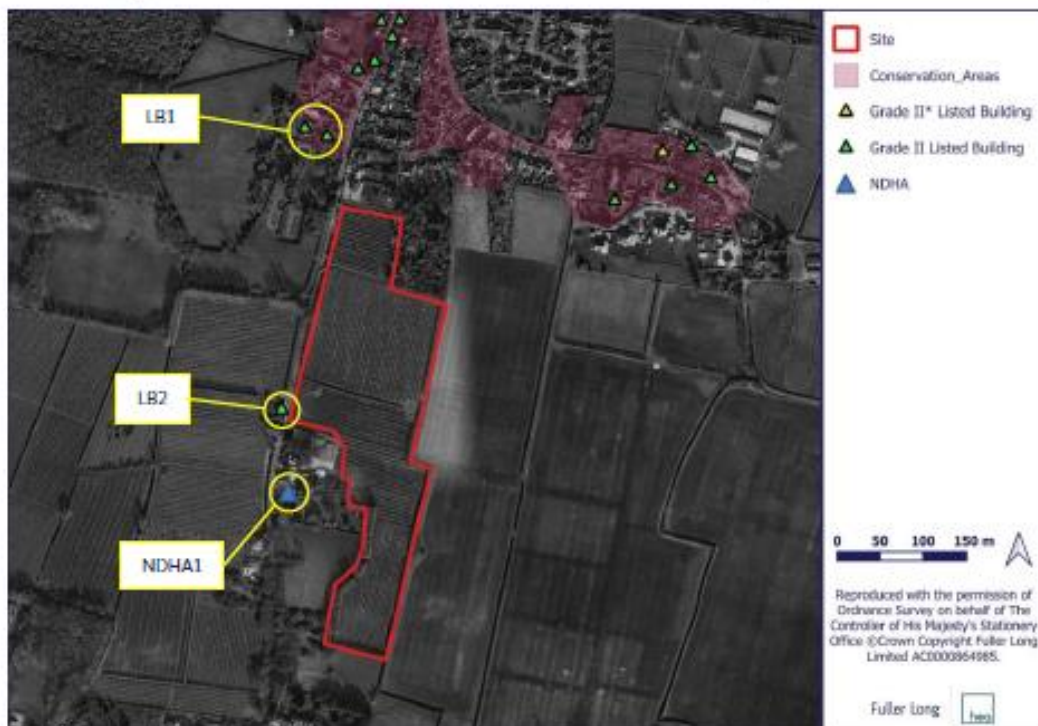


Figure 4. Heritage Assets of East Malling

LISTED BUILDINGS

LB1: IVY HOUSE FARMHOUSE AND BARN – GRADE II

Ivy House Farmhouse: Farmhouse enclosing possible former hall-house. Early C15 with C16 addition. Exposed timber-framing with painted brick infilling on ground-floor and close studding on 1st floor. Return gabled wing to left with first-floor jetty supported on moulded bressumer and corner brackets. Hipped plain tiled roof with gabled return wing with original moulded barge-boards left and C20 catslide extension to extreme right in front of C19 plastered brick wing at right angles to main block.



Large stack central to main block off-ridge to rear. 2 storeys; 2 window irregular front to main block, C18 and C19 glazing bar sashes. 1 win- dow front to return wing, casements. Boarded door with pentice hood to right of main block. INTERIOR: Much restored. One ground-floor room has very fine moulded ceiling joists.

Ivy House Barn: Barn. C17 with aisle probably of C18. Timber-framed and weather boarded with hipped plain tiled roof. Aisled on west side only, with central wagon entrances on both sides. 5 bays, with queen-post roof, heavy splayed posts carrying clasped purlins and principals diminishing above the purlins.

LB2: 122, CHAPEL STREET – GRADE II

Farmhouse. C17 with C18 elevations. Painted brick with tile-hanging in gables. Plain tiled roofs, half-hipped, with ridge stack off-centre to left and left-end stack. 2 storeys; irregular fenestration of 5 windows on 1st floor and 3 win- dows on ground-floor, all casements. Entrance off-centre to left with half-glazed door. Lean-to extensions to right.

NON-DESIGNATED HERITAGE ASSETS

NDHA1: IVY FARM, BELVIDERE OAST AND BELVIDERE OAST COTTAGES

- 6.1.3. Situated south, west and north west of the proposed site, this farmyard cluster comprises a farm house, (Ivy Farm) constructed from brick with wall hung tiles and a clay tile roof, a cottage (formerly subdivided and now extended to the east) constructed from red brick in a simple form with a clay tiled roof and a converted brick oasthouse with an unusual kiln roof. This farmstead is evident on the Tithe map of 1839.

ASSESSMENT OF SIGNIFICANCE AND SETTING OF THE LISTED BUILDINGS AND NDHAS

- 6.1.4. Ivy House Farmhouse is a timber framed vernacular farmhouse thought to date from the 15-16th centuries, or earlier. The structure is timber framed with a steeply pitched Kent peg tile roof. There is evidence of later additions. A characterful stone wall marks the front boundary with Chapel Street. The farmhouse sits forward of a collection of mostly traditional agricultural buildings configured in a somewhat loose courtyard arrangement. An historic double kiln oast house (now converted) is located immediately to the north.
- 6.1.5. One of the buildings to the south of the farmhouse is the second listed building and comprises a timber framed barn. Dating from the 17th – 18th centuries, it is a substantial building with a broadly rectangular footprint and simple form. It has timber weatherboard cladding and a deep clay tiled roof and remains unmistakably agricultural in appearance.



- 6.1.6. 122 Chapel Street (now known as Huntleys Cottage, 122 Wateringbury Road) is an attractive vernacular house constructed from red brick on a stone plinth with a clay tiled, half hipped roof. The building is set back slightly from the road behind a small front garden and a stone wall surrounds the garden to the side and rear. A black weatherboarded historic barn, likely once connected with the house, is evident to the south.
- 6.1.7. The special interest and significance of these heritage assets is primarily derived from their architectural and aesthetic interest as good examples of vernacular farmhouses, cottages, oast houses and barns. It comes from their distinctive form, traditional construction, and prevalent use of local materials. However, in addition, they hold notable historic interest as surviving tangible evidence of traditional farmsteads. On that basis, they help tell a story about the agricultural past of East Malling. This interest includes the historic fabric embodied within the buildings themselves but also extends wider to their setting.
- 6.1.8. The immediate farmstead/courtyard arrangements of the three clusters assessed above is an important component of the setting as their configuration provides strong clues as to how the buildings functioned as part of an agricultural operation relative to each other. Wider still, elements of the surrounding rural landscape within which the former farmsteads sit, give greater insight into how former occupants of the buildings would probably have used them in conjunction with the land they worked. Moreover, the proximity of the undeveloped land between them gives emphasis to the importance of land and agriculture as part of a traditional rural way of life.

CONSERVATION AREA

EAST MALLING CONSERVATION AREA

- 6.1.9. Designated in 1971 the CA was established around the historic streets of East Malling, and was subsequently extended in 1975 and 1993. The settlement dates back to the Roman period, but the majority of the conservation area comprises medieval and post-medieval architecture, with a range of timber framed, Georgian fronted and Victorian properties evident. The majority date from the 18th and 19th centuries. The focal point of the village is centred on the village green and the King and Queen Public House. The High Street and Church Walk converge here with New Road and Mill Street. The Church, 4-6 Church Walk and the pub provide focal points in the village
- 6.1.10. The character of the conservation area is derived from the architectural interest of the houses and boundary walls of the village which provide a varied and eclectic mix of built form. Many are constructed from red brick, featuring chequered brickwork patterns of red stock and burnt blue headers. There are some examples of the use of yellow stock brick, as well as the local material of ragstone. Aside from this, there are scattered examples of timber framing and limewashed render throughout the CA, coinciding with the other traditional materials and typologies. On the High Street, the urban grain becomes denser, with houses built hard on the street which gives a sense of enclosure. The road here is narrow, with on street parking which effectively makes the thoroughfare single track, causing traffic congestion and



damage to the conservation area. This is the single most detrimental and threatening aspect of the designated heritage asset.

- 6.1.11. There is some modern development to the west, east and south of the CA boundary which does not contribute positively to the significance of the asset. Chapel Street to the south becomes more verdant and less dense in nature as the village gives way to open countryside.

CONTRIBUTION OF THE SUBJECT SITE TO THE SETTING OF THE CONSERVATION AREA

- 6.1.12. The subject site is a parcel of undeveloped land that forms part of the rural setting of the village. This, combined with its agricultural appearance, give rise to an intuitive understanding that it was closely associated with the historic farmsteads immediately to the north, south and west of the site. The likely functional relationship between the land and the surrounding farmsteads can still be appreciated to an extent. Moreover, the agricultural and rural qualities of the subject site enhance the setting of the listed buildings, the NDHAs and the conservation area.
- 6.1.13. In turn, this promotes an appreciation of the close relationship with the landscape and thereby contributes to their historic significance as heritage assets. The subject site therefore makes a positive contribution to the setting of the conservation area
- 6.1.14. The proposed development would detrimentally alter and undermine the rural attributes of the land, with the substantive volume and massing of 52 houses, the presence of hardstanding and access roads adversely eroding the undeveloped character and sense of spaciousness that currently exists to the south of the village and the conservation area.



7 GROUNDS FOR OBJECTION

7.1 INTRODUCTION

- 7.1.1. The following section of the OS is prepared in accordance with the National Planning Policy Framework and will provide an analysis of the impact of The Project on the identified Heritage Assets.
- 7.1.2. A Heritage Statement and Addendum has been produced by HCUK for the applicant which concluded that the proposed development will amount to less than substantial harm to the setting of the East Malling Conservation Area due to the loss of rural land to the south of the village. No harm was found to impact any of the identified listed buildings or the non-designated heritage farmstead to the south of the site.

THE SUBJECT SITE

- 7.1.3. The appeal site is an area of undeveloped land comprising cultivated orchards and rough grass in a plot of 4.26 acres. There is some boundary hedgerow growth, and a small woodland to the northeast corner. Power lines and associated pylons cross the southwest corner of the plot. Despite this, the character of the subject site is clearly agricultural, with a spacious appearance and a strong countryside character which contributes positively to the verdant rural qualities of the area and the setting of the identified heritage assets.
- 7.1.4. Consequently, the appeal site forms part of the rural landscape close to the conservation area, the listed buildings and NDHAs. Evidence indicates that the subject site once formed part of the land closely associated with Ivy Farmhouse which is located within the East Malling Conservation Area.

SETTING

- 7.1.5. The assessment of setting has been undertaken following guidelines in 'The Setting of Heritage Assets; Good Practice Advice Note 3' by Historic England
- 7.1.6. An analysis of the setting of the conservation area above has assessed that the open nature of the agricultural land to the south of the village makes a positive contribution to the setting of the conservation area. This area between the village and The Heath provides the last remaining expanse of rural landscape that once traditionally surrounded the village. Housing developments to the north and west and the East Malling Research Station to the east has irrevocably changed the nature of the setting of the village from an small rural settlement to a more sprawling extension of Larkfield and West Malling. Consequently, the access to East Malling from the south down Watlingbury Road provides the last historically contextual approach to the village and conservation area. The development of 52 new homes will negatively impact this setting, and will urbanise the only surviving rural aspect immediately outside the historic core of the village.



- 7.1.7. The conservation area appraisal clearly states that *the surrounding landscape [to the village] is distinctive, giving the Conservation Area a unique character*. In addition, the appraisal goes on to say that *some of the open spaces remain between the farmsteads allowing their distinct identities to be retained. The retention of these important open spaces, not just as visual breaks, but as a record of the historic development of the village, is essential as they are as important to the character of the Conservation Area as the buildings themselves*. Whilst this relates to the conservation area itself, it can equally be applied to the setting beyond the conservation area, which is characterised by this very description to the south of the village.
- 7.1.8. With regards to the listed buildings, the Heritage Statement prepared by the applicant stated that setting of Ivy Farm House and Barn was derived from
- *The group value of the historic agricultural elements of Ivy House Farm which together form an important agricultural grouping and better reveal the historic origins of the farmhouse;*
 - *The relationship with the village of East Malling, the farmstead appears to have always been located close to the historic core of the village rather than in a historically isolated location;*
 - *The relationship with the road and surrounding road fronting historic buildings; and*
 - *The relationship with the surrounding agricultural land, particularly that historically associated with the farmstead.*
- 7.1.9. Thus it is accepted that the subject site contributes to the setting of these listed buildings as it historically forms land associated with the farmstead, but despite the proposed urbanisation of the land, the report concludes that no harm will be caused to these assets.
- 7.1.10. Similarly, the impact to the contribution made by the subject site to 122 Chapel Street is also dismissed, despite the development being located opposite this asset and despite the cottage and the subject site having strong intervisibility.
- 7.1.11. Within the subsequent heritage addendum, an assessment of the farmstead known as Ivy Farm. Belvidere Oast and Belvidere Cottage (161-163 Watlingbury Road), has also been undertaken, but likewise, the impact to the setting of these NDHAs has been dismissed, despite the subject site forming the rural surroundings that contributes to an understanding of the historic agrarian nature of these buildings.
- 7.1.12. Once built, The Project will not only urbanise the landscape on the south side of the village, but the associated light spill and increased traffic movements will also negatively impact the rural setting of the conservation area. It is considered, therefore that the conclusions reached by the applicants heritage statement are flawed, and that less than substantial harm will be caused to the settings of all of the identified heritage assets.



IMPACT TO THE CONSERVATION AREA

- 7.1.13. In addition to the harm caused to the rural setting of the conservation area, it is considered that additional harm will be caused directly to the character and appearance of the conservation area as a result of the substantially increased through-traffic from the development of 52 new homes.
- 7.1.14. The medieval narrow streets of the conservation area, particularly along Chapel Street and the High Street, with historic buildings built hard against the pavement edge, has inevitably evolved into a bottleneck in the 21st century as parked and moving cars clog the roads that were never intended for modern traffic. The status quo at present is already untenable, with historic buildings and boundary walls flanking the road being repeatedly damaged by passing vehicles. The installation of bollards which are intended to protect the built form of the village already detracts from the character and appearance of the conservation area and creates a terribly narrow footpath which is a danger to able and impaired pedestrians alike. Larger vehicles, and in particular HGVs, often get stuck on the street and have to be reversed out with the unavoidable impact to other road users (Fig. 11).
- 7.1.15. Historic England's Good Practice Advice Note 3 (The Setting of Heritage Assets) states that the character and appearance of a conservation area is not limited to its architectural built form, layout, verdant qualities or historical associations, but is also influenced by other factors which influence the 'feel' of an area: the noise, smells and sense of tranquillity can all contribute to character, which can be harmed by the introduction of external elements such as traffic. The guidance goes on to state that *'the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places.'*
- 7.1.16. Historic England Guidance Note 1 (Second Edition) recommends that conservation areas should be assessed at different times to *'experience of the sense of place, including impacts of traffic'*. The advice goes on to say traffic, noise and odour can detrimentally affect the ability to experience of the sense of place. The erosion of a conservation area's special interest may be caused by the increase in car use in the vicinity, which can change the character of a conservation area to such an extent that its special interest – its *'illustrative value as a Kentish village which contains an eclectic grouping of built form'* (as described in the applicant's Heritage Statement), is completely lost as a result of the noise, vibrations, smell and visual disturbance caused by the substantial additional levels of traffic that will further add to the congestion within the conservation area.
- 7.1.17. The impact of traffic within the conservation area is a critical factor. The dominance of heavy traffic (and the measures to calm it) together with the damage it causes is already the main negative feature of the East Malling Conservation Area. The additional traffic generated by 52 new homes will only serve to



exacerbate this problem. Recent studies¹ have suggested that each house generates around 5 to 5.5 vehicle trips per day. These include all vehicles coming and going - not just residents, but friends visiting, post vans, supermarket deliveries, couriers etc. which are now widespread on the roads today. This equates, on average, to an additional 286 cars per day through the already over congested conservation area, causing significant harm to the experience of the heritage asset and thus its character and appearance.

- 7.1.18. Most of the journeys undertaken from the subject site will likely pass through the village and the conservation area to access supermarkets, motorways, and major conurbations further north. Those travelling south will eventually join the congestion at the Watlington Crossroads, located within another conservation area also plagued by the traffic conditions in the village at peak times.
- 7.1.19. Step 4 of GPA 3 states that a developer should explore ways to maximise enhancement and avoid or minimise harm. It is considered that the proposed development cannot avoid or minimise the harm to the conservation area that will be caused by an increase in traffic unless the houses are constructed as car-free dwellings.



Figure 5. Traffic on Chapel Street looking north



Figure 6. Traffic on Chapel Street looking south

¹ <https://gordonstokes.co.uk/transp-ta/triprates.html>



Figure 7. Traffic on High Street looking south with narrow pavements and bollards in the background.



Figure 8. Traffic on High Street looking north



Figure 9. Traffic on High Street looking south to the King & Queen pub



Figure 10. Traffic on High Street looking south



Figure 11. HGV stuck on the High Street



Figure 12. Damage to historic building in the conservation area as a result of passing large vehicles on the very narrow street.

CUMULATIVE IMPACT

- 7.1.20. Other large housing developments that have been given permission in recent years include one in 2019 ref. TM/19/01814/OA for 250 dwellings, one in 2020 ref. TM/18/03008/OA for 110 dwellings to the east of New Road on the direct A20 to A26 route through East Malling, and one in 2024 ref. TM/23/03060/OA for 150 dwellings on land west of Stickens lane and south of Mill Street being. These developments are within 2 miles of the subject site and East Malling and will also add to the traffic pressures on the conservation area and the village, adding to the harm inflicted on all of the heritage assets along the roads of the conservation area.

SUMMARY

- 7.1.21. While the Tonbridge and Malling housing supply has a shortfall in line with government housing targets, there will always be pressure to build new homes in the borough. However, The Secretary of State gives the preservation of the nation's heritage assets GREAT WEIGHT, irrespective of whether the harm is substantial or less than substantial.
- 7.1.22. This OS has demonstrated that the harm caused to the setting of the heritage assets is LESS THAN SUBSTANTIAL as a result of the loss of the rural setting to the south of the village and SUBSTANTIAL in



terms of the direct impact to the character and appearance of the conservation area as a result of the increased noise, fumes, vibrations and visual traffic load on the single track road into the village.

- 7.1.23. Whilst the case officer has considered the less than substantial impact to the setting of the heritage assets to be offset by the public benefit of the new homes, to date no consideration has been given to the significant impact to the character and appearance of the conservation area as a result of increased traffic. Long term this may lead to people leaving the village with knock on effects of properties lying empty and in disrepair which will further harm the conservation area.
- 7.1.24. This OS therefore requests that due consideration and great weight is given in the decision making process to preserving the conservation area.



8 CONCLUSION

- 8.1 Amongst the Government's planning policies for the historic environment, decision makers should make conservation decisions based on a proportionate assessment of the particular significance of any heritage asset that may be affected by a proposal, including by development affecting the setting of a heritage asset.
- 8.2 A setting's importance lies in what it contributes to the significance of the heritage asset or to the ability to appreciate that significance. Not all settings have the same capacity to accommodate change without harm to the significance of the heritage asset or the ability to appreciate it.
- 8.3 When assessing any application for development which may affect the setting of a heritage asset, local planning authorities may need to consider the implications of cumulative change. They may also need to consider the fact that developments which materially detract from the asset's significance may also damage its economic viability now, or in the future, thereby threatening its on-going conservation. Cumulative assessment is also required to identify impacts that are the result of introducing the development in combination with other existing and proposed developments in the area. The combined impact may not simply be the sum of the impacts of individual developments; it may be more, or less.
- 8.4 This OS has assessed the significance of the heritage assets likely to be impacted by the scheme together with the contribution made by their settings. It has established that the development would erode positive rural qualities that form part of the setting to the listed buildings and conservation area, and thereby would be detrimental to a component of their special interest and significance. Consequently, the proposal would run counter to the expectations of the Planning (Listed Buildings and Conservation Areas) Act 1990. In the terms of the National Planning Policy Framework (the Framework), cognisant that only part of the setting of the listed buildings would be affected, the degree of harm to their overall significance as designated heritage assets would be less than substantial in each case.
- 8.5 Paragraph 215 of the Framework states that in these circumstances the harm should be weighed against the public benefits of the proposal. Paragraph 212 confirms that when considering the impact of proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
- 8.6 Paragraph 216 of the Framework requires a balanced judgement to be required when assessing the impact of the development on the setting of the non-designated heritage assets.
- 8.7 The principal public benefit arising from the scheme would be the provision of 52 additional dwellings towards the overall housing supply in an area where there is considerable unmet need. However, it is considered that the extent of the public benefit arising from the 52 dwellings would be insufficient to outweigh the great weight attributed to the less than substantial harm caused to the setting of the listed buildings and the conservation area.
- 8.8 In addition, and in accordance with paragraph 214 of the Framework, it is considered that the substantial harm caused by an additional 100,000 vehicles passing through the village each year (resulting in a direct impact to the character and appearance of the East Malling Conservation Area), will not be outweighed by the public benefit and consequently consent should be refused.



- 8.9 Conflict therefore arises with the historic environment protection policies in the Framework. In addition, paragraph 187 of the Framework stipulates that planning decisions should contribute to and enhance the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside.
- 8.10 Footnote 8 of the Framework confirms that paragraph 11d) is engaged in circumstances where the local planning authority cannot demonstrate a five year supply of deliverable housing sites. The presumption in favour of sustainable development means that planning permission should be granted unless
- (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development, or
 - (ii) that any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
- 8.11 This OS has found that the proposal would result in unjustified harm to designated and non-designated heritage assets. Footnote 7 to paragraph 11 of the Framework confirms that this amounts to a clear reason for refusing the development proposed for the purposes of paragraph 11d)(i). As such, paragraph 11d)(ii) does not apply.
- 8.12 Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. It is considered that the proposal would conflict with policies of the development plan which seek to protect the quality of the historic and natural environment. Consequently, the proposals would be contrary to the Tonbridge and Malling Local Plan, The Planning (Listed Buildings and Conservation Areas) Act 1990, and the NPPF.

Appendix 2: Comments from Conservation Officer

Thank you for consulting with me in order to provide a professional review of the letter of objection to this development that has been submitted by Fuller Long on behalf of the East Malling and Larkfield Parish Council, dated January 2024. I have reviewed the application but please note that my comments are specific to the policy and statutory elements of this objection rather than the details of the proposals, for which my colleague has already provided advice.

The proposed development is in outline form, for up to 52 dwellings and associated landscaping, roads, and protected open space. All matters are reserved other than access. It is agreed that the proposal will, indicatively given that it is in outline form, result in a permanent change to the landscape and setting of the village and its heritage assets, as per the third assessment table in Historic England's GPA3, 'The Setting of Heritage Assets'. The letter sets out the opinion of the nature and level of harm to Ivy farmhouse and barn, 122 Chapel Street and the non-designate heritage asset farmstead at 161 Wateringbury Road, as well as the East Malling Conservation Area. For the latter, the level of harm is considered to be substantial, which the courts have determined in a high bar to reach. For the listed buildings, the level of harm is considered to be less than substantial. The principal grounds for objection are set out in paragraph 1.1.4, copied below. My response is the same for all three of these grounds, to do with interpretation of the NPPF historic environment paragraphs and relevant caselaw.

1. COMMENT ON GROUNDS OF OBJECTION

'1.1.4 The principal grounds for objection relate to the following: the failure of the applicant to undertake a sufficiently robust assessment of how setting contributes to the significance of identified heritage assets in the way and degree required by National and Local legislation which led to the conclusion that no harm would be caused to Ivy farmhouse and barn, 122 Chapel Street and the NDHA farmstead at 161 Wateringbury Road; the failure of the applicant to consider the direct impact of the development on the character and appearance of the East Malling Conservation Area, and the failure of the applicant to consider the cumulative impact of the proposed scheme in addition to other recent approved large housing schemes on the significance of the East Malling Conservation Area as a result of significantly increased traffic.'

There is caselaw which confirms that (new) NPPF paragraph 207 does not require that an applicant follow a prescriptive method for describing the significance of heritage assets affected, as it is a matter for the decision maker. *Bramshill Ltd v Hart District* 2019, however, determined that the balance, and sequential consideration of the paragraphs of the NPPF in terms of compliance with the legislation, is a matter of judgement for the decision maker. Note that the paragraph, copied below, requires only description of significance, including contribution of setting, and not an actual assessment. This falls to the local authority as a requirement under the subsequent paragraph 208, also copied below. Finally, the supporting Planning Practice Guidance, in paragraph 18a-009, clarifies that *'applicants should include analysis of the significance of the asset and its setting, and, where relevant, how this has informed the development of the proposals.'* This does not require agreement between the LPA and the applicant on the effect, as the LPA under paragraph 208 is required to make the judgement on the effect on significance in the decision-making process, not the applicant. The LPA will have considered cumulative impact as part of this decision making process as well, in accordance with paragraph 18a-013 of the PPG, which is the final quotation below (note that it is the LPA that 'may need to consider the effects of cumulative change') The applicant has accurately identified the heritage assets to be affected, I believe, and you may be of the view that the heritage statement submitted has otherwise met the requirements of paragraph 207.

NPPF paragraphs:

'207. 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.

208. 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.'

PPG paragraphs:

'Applicants are expected to describe in their application the significance of any heritage assets affected, including any contribution made by their setting ([National Planning Policy Framework paragraph 189](#)). In doing so, applicants should include analysis of the significance of the asset and its setting, and, where relevant, how this has informed the development of the proposals. The level of detail should be proportionate to the asset's importance and no more than is sufficient to understand the potential impact of the proposal on its significance.

Paragraph: 009 Reference ID: 18a-009-20190723'

'When assessing any application which may affect the setting of a heritage asset, local planning authorities may need to consider the implications of cumulative change. They may also need to consider the fact that developments which materially detract from the asset's significance may also damage its economic viability now, or in the future, thereby threatening its ongoing conservation.

See [further guidance on setting of heritage assets and wind turbine development](#).

Paragraph: 013 Reference ID: 18a-013-20190723'

COMMENT ON OPINION OF LEVELS OF HARM

The applicant's heritage statement, including addendum, concludes that no harm is caused to the listed buildings within the setting, or the NDHA farmstead, and that less than substantial harm would be caused to the significance of the East Malling Conservation Area, through change to its setting. This objection report concludes less than substantial harm to the LBs and NDHA, and substantial harm to the Conservation area, through change to setting and also direct impact from traffic.

I will leave the judgement of the harm suggested through change of setting to you, based on the advice given to you by my colleague, and comment only on the suggested direct harm to the conservation area, even though the development sits outside it. The NPPF is Government policy to advise local planning authorities in producing plans and making planning decisions. The historic environment section includes policies that allow the decision maker to follow a process that, the courts have determined, will lead to correct application of the underlying legislation in the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 72 of the Act relates to decision making in conservation areas. It states that:

'72 General duty as respects conservation areas in exercise of planning functions.

*(1) In the exercise, with respect to any buildings or other land **in a conservation area [my emphasis]**, of any **[F1] functions under or by virtue of [F1]** any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of **preserving or enhancing the character or appearance of that area [my emphasis]**.*

*(2) The provisions referred to in subsection (1) are the planning Acts and Part I of the **M1** Historic Buildings and Ancient Monuments Act 1953 **[F2] and sections 70 and 73 of the Leasehold Reform, Housing and Urban Development Act 1993 [F2]**.'*

This does not mean that setting cannot be taken into account, as it is Government policy for LPAs to do so. However, it is not a statutory requirement in relation to conservation areas, as this section deals only with development within conservation areas. It's important to note that, whilst the effect of developments and everything that comes with them (particularly a residential development) can be considered in decision making, and GPA3 provides guidance on this, direct impact will only ever be the result of development within the conservation area. Therefore, temporary changes to environment, such as increase in traffic, cannot be considered a direct impact. You may wish to consider the effect of the traffic on the setting as well as the character and appearance of the conservation area under NPPF paragraph 208, but otherwise there is no direct and permanent change to the conservation area itself. I disagree, therefore, that substantial harm would be caused to the conservation area by direct impact, which would invoke s.72 of the Act and therefore is an incorrect assessment as set out above.

Not only this, in the judgement for *Bedford BC v Sos [2012] EWHC 4344*, it was established that substantial harm will equate to 'very much if not all' of the significance being taken away, or removed altogether. This has not been further challenged and so remains relevant. My view is that the indirect impact, that is to say the change to that part of the setting of the conservation area that contributes to significance, would not come near reaching that level of harm as defined in the judgement. The Planning Practice Guidance confirms this in paragraph 18a-018. It also confirms in accordance with *Barnswell* that 'whether a proposal causes substantial harm will be a judgement for the decision maker'.

I hope the above is of assistance.

Kind regards,

Debbie Salter

Conservation and Urban Design Officer

Consultant to Tonbridge and Malling Borough Council



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**East Malling, West Malling
and Offham**
East Malling

TM/22/01570/OA

Location: Land North East and South of 161, Watringbury Road

Proposal: Outline Application: All matters reserved except for access for the erection of up to 52 residential dwellings, including affordable housing, open space and landscaping, roads, parking, drainage and earthworks. New access to be formed from Watringbury Road.

Go to: [Recommendation](#)

1. Description of Proposal:

- 1.1 Outline planning permission, with all matters reserved for future considerations with the exception of access is sought for the development of up to 52 dwellings, of which 40 percent would be affordable. The development would be supported by associated open space provision and landscaping.
- 1.2 As the application is in outline form essentially this report is dealing with the principle of the development with all details, except for the general quantum of development and the means of access reserved for future consideration and, subject to approval of the outline planning application, subsequent planning applications.
- 1.3 The means of access is indicated as being in the northwestern corner of the site with alterations proposed to the existing traffic calming on Watringbury Road to move the 20mph zone 10m to the south.

2. Reason for reporting to Committee:

- 2.1 At the request of Cllrs Tatton and Roud due to the site not being allocated for development, impact on wildlife, impact on traffic, not a sustainable site, impact on surrounding listed buildings and East Malling Conservation Area and inappropriate access.

3. The Site:

- 3.1 The site is an area of approximately 4.6Ha to the eastern side of Watringbury Road. The site is outside but immediately adjacent to the village settlement boundary of East Malling.
- 3.2 The site consists of existing commercial orchards bound by tall shelterbelts. An overhead electricity pylon and pylon tower is located in the western part of the site and crosses the site in a north west top south east orientation and is a defining feature in the locality. A small woodland is beyond the north-east corner of the site.

- 3.3 The site is bound by two storey detached residential properties adjacent to Wateringbury Road and a small woodland to the north; Arable fields divided by tall shelterbelts to the east; residential gardens consisting of established vegetation to the south; and Wateringbury Road, Ivy Farm, Belvidere Oast Farm and no.122 Wateringbury Road Farmhouse to the west.

4. Planning History (relevant):

- 4.1 None relevant

5. Consultees:

- 5.1 PC: The comments of East Malling and Larkfield PC are attached to this report at appendix 1 due to their length.
- 5.2 PC: Teston PC: We ask you, please, to recommend refusal of this application on the grounds of:
- adverse traffic impact on an already difficult situation in East Malling's Conservation Area;
 - highly questionable sustainability; and
 - in reality, no need for this site, despite lack of valid Five Years' Housing Supply as, almost certainly, the Government's mandated housing requirement will soon be revised downwards – and probably substantially downwards.
- 5.3 PC: Waterinbury PC: Whilst this application is outside our parish Wateringbury Parish Council is very concerned over what would be an increase in traffic movements should permission be given. Vehicles travelling south would use Wateringbury Road and Red Hill and exacerbate the already identified high air pollution levels at the traffic lights. Equally vehicles travelling north from site would use the narrow East Malling High Street which already suffers congestion, and air pollution would be increased.
- Wateringbury Parish Council fully supports the comments/objections from East Malling & Larkfield Parish Council and Teston Parish Council
- 5.4 KCC Highways: The comments of KCC Highways are attached to this report at appendix 2 due to their length.
- 5.5 KCC LLFA: No objections subject to conditions
- 5.6 KCC Heritage: Recommend the imposition of conditions relating to archaeology and archaeological landscapes

- 5.7 KCC Ecology: Due to the sensitive nature of these comments identifying the location of protected species they are not available for public inspection but a copy has been provided to Members.
- 5.8 KCC Economic Development: contributions sought towards education and community services – details included within the report.
- 5.9 Southern Water – No objections
- 5.10 EA: Thank you for consulting us on the above planning application. We have screened the application and have no objection in relation to groundwater and contaminated land.
- 5.11 Environmental Health: No objections subject to conditions relating to noise and contamination.
- 5.12 Conservation Officer: The heritage statement with the application gives a comprehensive appraisal of significance, impact and harm for the designated assets close to the site. The report is clear that it is only able to discuss heritage impact as an overall concept given the outline nature of the proposal. I would agree with the reports conclusions regarding impact on significance.

However the document does not seem to consider the impact on 161 Watringbury Road. The site is located north, east and south of 161 Watringbury Road, a historic farmstead as identified on the KCC HER. You may wish to consider the historic farmsteads identified within the historic farmsteads category of the HER as being non-designated heritage assets for the purposes of the NPPF. The farmstead appears to retain a number of historic buildings including the farmhouse and a courtyard farmyard (KCC description). The farmstead is currently in open agricultural land. The setting of the farmstead will be harmed by the intensity of development to the North but will retain connection to the farmland to the east and south with the retention of the orchard. The harm would be less than substantial and towards the low end of the scale.

- 5.13 Leisure Services: No objection subject to the applicant entering into a S106 agreement to provide contributions towards off-site open space provision.
- 5.14 Natural England: No objection - Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.
- 5.15 CPRE: Due to the length of the comments these are attached as Appendix 3 to this report
- 5.16 Kent Police: No objections in principle.
- 5.17 West Kent PCT: Site would require developer contributions towards medical centre provision.

5.18 West Kent Badger Group: Due to the sensitive nature of these comments identifying the location of protected species they are not available for public inspection but a copy has been provided to Members

5.19 Private Reps: 238 objections received raising the following areas of concern:-

- There has been damage to a badger sett. Want an impartial/thorough assessment of developers assertions. No review of badger sett within submission
- Land is part of rural agriculture/Kent heritage – orchards. Considered to be of local scientific importance – a dwarfing grafted orchard pioneered by Robert Garner. Concerned about loss of irreplaceable land, agricultural land/countryside/impact on Garden of England.
- Loss of best and most versatile grade 2 agricultural land. Land should be used for providing food to address food shortages, to address climate change
- Farm is viable as existing – should be retained as such
- Detrimental impact on character/distinctiveness of area/landscape/rural gateway into village
- Detrimental impact on Conservation Area/Listed Buildings/setting of listed buildings/heritage of East Malling/adjacent heritage buildings/rural village setting (orchard, fields, hamlet, village).
- Loss of village/urban sprawl/reducing gaps between settlements
- Insufficient infrastructure, including roads, shops (none in East Malling village), public transport (bus recently cancelled/far away, infrequent trains, trains better at West Malling, no transport southwards, station inaccessible/upstairs), schools, doctors, dentists, social workers, midwife's, health visitors, water, sewage, refuse collection, emergency services, hospitals, East Malling station car park and communications – as existing and to serve this development and others
- Station has no parking and no disabled access. Limited train availability – once an hour apart from during peak times.
- Lots of traffic/congestion and insufficient highways infrastructure as existing (generally, Chapel Street, Watlingbury Road, High Street, Mill Street, New Road, Watlingbury crossroads, A20, West Malling bypass, Hermitage Lane, Rocks Road), increased traffic as existing, speeding, narrow roads, busy roads, lack of and narrow pavements, many collisions, road rage, pollution, vehicles becoming stuck and damaged on-street parked cars. Watlingbury Road is a main thoroughfare between A26 and A20, with limited other routes.

- More houses will result in more highways pressure, village cannot cope with more traffic, risk to human life, reduced air quality (also to Wateringbury crossroads), noise pollution, more accidents, damage to vehicles parked, damage/harm to listed buildings, harm to Conservation Area, will block emergency service vehicles. Need to consider cumulative impact of developments.
- Parking likely to be insufficient, no alternative parking elsewhere in this location/will cause highways visibility issues.
- Will be a strong reliance upon cars for this development. Contrary to CP1, CP2 and NPPF.
- New access is dangerous on such a busy and narrow road, close to a table top highways feature. Design does not consider actual vehicle speeds at this location. Unsafe pedestrian access due to parked cars, cars mounting pavement, narrow pavement and bins on pavement, unable to accommodate additional pedestrians – concerns with KCC Highways comments on pedestrian safety.
- Underestimates expected traffic generation by the development.
- Destruction of AONB
- Loss of Green Belt Land
- Site home to important wildlife and ecology. Concerned about loss of/impact on nature/wildlife/ecology. Impact upon bees/pollinators. Ecology report undertaken in February 2022 outside optimal season and therefore have concerns over the assessment. Report does not consider the spring and refers to outdated guidance. Report not suitable for a planning application – only a PEAR, contrary to CIEEM website. Full survey required up-front. No full survey of woodland – how would residents be prevented from accessing it.
- Does not meet 10% BNG
- Pollution high as existing (generally, Chapel Street), will make this worse
- Loss of huge number of trees – need these to combat global warming, their loss will damage the environment
- Site should be protected given global deforestation, global warming and food supply issues – proposal not carbon neutral/will do more harm than good.
- Climate change an existing problem, will become worse as a result of the development removing green spaces. Loss of CO₂ absorption and oxygen production. Contrary to Governments Net Zero emissions strategy, NPPF and TMBC Climate Action Plan.

- Site is a green lung to support surrounding development.
- Brownfield sites should be developed first
- Concerned about sheer amount of housing proposed in locality
- Design, appearance, layout, scale, siting, character, density and landscaping of development inappropriate for the locality. Should use vernacular materials if allowed. Conflicts with Policy CP24 and SQ1.
- Noise and disturbance.
- Setting a precedent
- Overlooking/Loss of privacy – contrary to Human Rights Act.
- Overshadowing
- Illustration not an accurate representation
- Loss of sunlight
- Unable to manage boundary/issues with access
- Too much development in this locality.
- People have moved out due to so much development.
- Concerned about loss of open space, countryside, clean air – what will happen to mental and physical health.
- Impact upon quality of life of existing residents
- Flooding – will this make it worse?
- Scheme just to make profit. Not for benefit of the local area.
- Lack of details regarding house types
- Disturbance from smells
- Resources relating to reservoirs
- Public health amenities
- Light pollution
- Application consulted/submitted when people less likely to notice

- Deter ramblers, cyclists and visitors to the area
- The site is not allocated for development
- Why is a site which was previously deemed not suitable for allocation in 2003 now suitable? Previous applications were refused – where is the justification?
- Lack of affordable housing. Need more affordable housing/question the affordable housing provision. Believe that TMBC previously advised site was not suitable for affordable housing due to lack of services – 40% provision is contrary.
- Issues with water entering water table
- Object to a delegated decision – should be heard at committee
- Development extends beyond the historical 17th century boundary of the village
- Sheer number of objections – shows development is not supported by community
- Lack of consideration for disabled people
- Does not encourage walking and cycling – not within walking distance of facilities, no footpath
- Development does not promote sustainable transport/accord with NPPF and local policies in relation to transport/highways. Too far from shops and no public transport.
- Proposed nature area will not work – will be affected by human activity
- Concerns over numbers and conclusions within highways/transport report, including expected trips and peak hours, especially given use of data for suburban locations. If applying expected higher number, severe highways impact expected. Should consider approved/being built developments also.
- How will open space be maintained
- Proposal not to build below power lines, just to gain favour of committee
- Cycle/pedestrian path is on land not owned by applicant/cannot be delivered
- One way in/out not acceptable in relation to emergency access.
- Need infrastructure improvements and detailed plan between all authorities. New towns should be proposed, away from existing settlements with their own facilities. Until this happens, existing settlements will become overdeveloped and strained, with disagreement between existing and new residents.

- Increased crime
- Loss of dark light/unlit area.
- Reduction in house value
- Construction traffic and noise concerns
- Arboricultural report does not address the loss of the orchard trees
- Disagree with sustainability statement given loss of trees
- Design and Access Statement does not truly reflect local houses
- It is not certain that developer will maintain buffer to the north-east boundaries
- Where is the demonstrated need for housing?
- Contrary to TMBC and national planning policy
- Lack of Local Plan/historic delivery of housing not reasons to justify this housing
- How often will Wateringbury Road be shut?
- Should focus on renovating empty/rundown properties.
- What demographic are the houses aimed at?
- Pre-app advice did not cite the East Malling Village Conservation Area Appraisal – development contrary to this. Also contrary to former Conservation Area study.
- Should retain an undeveloped gap between development and existing village confines.
- Change to character not localised – boundary treatment will not screen development/will harm the character of the area.
- An Air Quality Report should have been submitted
- If approved, request planning conditions relation to construction traffic, working hours, sustainable transport, traffic calming, pollution reduction and for traffic calming measures.
- Increased heat/urban heat island
- Lack of joined up planning between developments
- Development has the potential to block rainwater entering the ground and feeding the local stream. No mention of this in application.

- Development has been concentrated elsewhere in Borough recently, leading to traffic issues, this spreads it elsewhere.
- Can access cope with this traffic and other development traffic at peak hours?
- Council should publish proposal to improve traffic flows

6. Determining Issues:

- 6.1 Prior to the consideration of the proposal it should be noted that the Government is currently undertaking a consultation into revisions to the NPPF in light of the direction in policy being proposed in the Ministerial Statement 'Building the Homes we Need'. These revisions to the NPPF are at the consultation stage only and therefore do not carry any weight at this stage and the following discussion is based on the contents of the current December 2023 NPPF.
- 6.2 The Council cannot presently demonstrate a five year supply of housing when measured against its objectively assessed need. This means that the requirements of paragraph 11 of the NPPF (2023) fall to be applied. This sets out the presumption in favour of sustainable development which for decision taking 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 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.
- 6.4 The footnote to this paragraph defines 'the policies' as mentioned above 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. I will consider each in turn below.

Heritage Assets

- 6.5 The proposed development site is within the setting of heritage assets.
- 6.6 Paragraph 200 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 states 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, paragraph 205 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 6.9 Paragraph 208 goes on to state that 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.
- 6.10 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.
- 6.11 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.”

- 6.12 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.
- 6.13 The site is located outside of the Conservation Area boundary and is approximately 63m south of the southern boundary. The nearest listed building is on the opposite side of Watlingbury Road (no. 122) with the site being to the north and east of the historic farmstead of Belvidere Oast. The separation is such that the application site is not considered to contribute to the character and appearance of the Conservation Area. Similarly, the setting of the listed building would not be affected due to the proposed development being set back from the opposite side of the road to the listed building, and also the retention of the existing boundary screening that is currently present. As such it is considered that any harm to designated heritage assets would be at the lower end of less than substantial.
- 6.14 The application site wraps round Belvidere Oast Farm. This complex of buildings is not listed but is recorded on the Kent Historic Environment records as a historic farmstead. This would therefore be considered as a non-designated heritage asset. The setting of the historic farmstead is currently an agricultural one and whilst the development would see built form added to the north of the farmstead the agricultural setting would remain to the south east and west. As such the level of potential ‘harm’ to the significance of the farmstead is considered to be very low. The proposed development would therefore not detract from the ability of the observer to recognise and appreciate the special interest of the listed building, the historic farmstead nor the East Malling Conservation Area and would therefore amount to less than substantial harm in NPPF terms.
- 6.15 On this basis it is considered that the works 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 and the NPPF (2023).

Flooding

- 6.16 Policy CP10 states that:

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

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

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

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

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

6.17 Paragraph 173 of the NPPF states that “When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

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

b) the development is appropriately flood resistant and resilient;

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

d) any residual risk can be safely managed; and

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

6.18 The site is within flood zone 1 and consequently has a low risk of surface water flooding. There are therefore no restrictive policies relating to flooding at the site.

6.19 It is considered that the NPPF tests regarding harm are therefore met and 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. It is on this basis that the remainder of the analysis, and the conclusions drawn, follow.

Locational characteristics and associated impacts

6.20 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.

- 6.21 The NPPF states at paragraph 7 that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 of the NPPF states that the planning system has three overarching objectives to achieving sustainable development, these being an economic objective, such as ensuring adequate land is available to support growth and enable the provision of infrastructure; a social objective, such as ensuring a sufficient number and range of homes can be provided to meet the needs of present and future generations as well as accessible services and open spaces; and an environmental objective, ensuring that effective use is made of land, helping to improve biodiversity and protecting and enhancing the natural, built and historic environment.
- 6.22 It is considered that the location of the site and the type of development proposed would be considered sustainable development under paragraph 8 of the NPPF and this is set out in greater detail throughout this report as necessary.

Character and pattern of development and impact upon visual amenities:

- 6.23 Policy CP24 of the TMBCS requires development to be of a high quality and be well designed to respect the site and its surroundings in terms of its scale, layout, siting, character and appearance. Policy SQ1 of the MDE DPD advises that new development should protect, conserve and, where possible, enhance the character and local distinctiveness of the area including its setting in relation to the pattern of the settlement, roads and surrounding landscape. These policies are broadly in conformity with those contained within the Framework which relate to quality of new developments.
- 6.24 In particular, paragraph 135 seeks to ensure that development:-
- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
 - c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
 - d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

6.25 Furthermore, paragraph 139 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. Conversely, significant weight should be given to development which reflects local design policies and government guidance on design.

6.26 With regard to landscape, effects on such matters as landscape designations, the landscape quality, scenic quality, rarity, recreational value and perceptual aspects and associations should be considered. The site is not covered by any statutory landscape designations.

6.27 The indicative development proposed indicates buildings of approximately 2 storeys in height focussed at the northern end of the site with open space and retained orchard to the south of the existing overhead power line that crosses the site. The existing landscaping in the form of the hedgerows and shelter belts on the site are indicated as being retained and enhanced with a 20m wide landscape buffer being provided around the north-eastern corner of the site to mitigate the impact of the development on local wildlife. The site is slightly lower than Watlington Road to the west with this change in level and the retention of the existing boundary screening reducing the overall impact of the development on the surroundings.

6.28 Overall, it is 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 which would ensure that the proposed development would not result in significant harmful effects to the character and appearance of the area, nor its visual amenity.

6.29 On this basis it is considered that the proposed development is in accordance with CP24 of the Core Strategy, SQ1 of the MDE DPD and the NPPF.

Access and Highways

6.30 Policy SQ8 of the MDE DPD sets out that before proposals for development are permitted, they will need to demonstrate that any necessary transport infrastructure, the need for which arises wholly or substantially from the development, is in place or is certain to be provided.

- 6.31 It goes on to state that development proposals will only be permitted where they would not significantly harm highway safety and where traffic generated by the development can adequately be served by the highway network.
- 6.32 Development will not be permitted which involves either the construction of a new access or the increased use of an existing access onto the primary or secondary road network (as defined by the Highway Authority) where a significantly increased risk of crashes or traffic delays would result. No new accesses onto the motorway or trunk road network will be permitted.
- 6.33 Development proposals should comply with parking standards which will be set out in a Supplementary Planning Document.
- 6.34 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.
- 6.35 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. 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.
- 6.36 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.
- 6.37 The application proposes to have its vehicular access from Watringbury Road to the south of boundary with 51 Watringbury Road. The submitted transport assessment

has been assessed by KCC Highways and they have agreed that the development is likely to generate 24 two way movements in the AM peak and 26 two way movements in the PM peak, with the pattern being predominantly movements north through East Malling Village. Whilst it is acknowledged that some sections of East Malling High Street contain existing on-street parking arrangements which to some extent interrupt the flow of traffic the amount of additional traffic generated would equate to only one additional vehicle every three minutes. This increase in traffic would be viewed as modest and when considered alongside the good personal injury collision record along East Malling High Street there is no evidence that the additional traffic could worsen conditions to the point that could be reasonably described as severe or impact on highway safety. The findings of the traffic survey undertaken by the Parish are noted, these results do not alter the above position that the development could worsen existing conditions.

- 6.38 The siting of the access onto Watlingbury Road requires alterations to the existing traffic calming features present. To this end the application proposes moving the 20mph speed limit 10m to the south so that the site access is within the traffic calmed zone. The access has been subject to a full road safety audit with the design being viewed as appropriate. The comments regarding Watlingbury Road being of insufficient width to accommodate the access are noted however it is important to consider that there are no minimum standards for existing road widths and the proposed access has passed the road safety audit. The access design and the amendments to the existing traffic calming would be provided under a S278 agreement and overall, KCC Highways, as statutory consultee on these matters consider that there is no objection to the works and they are therefore considered to be acceptable.
- 6.39 The concerns of the adjoining resident regarding the visibility splays requiring the use of third party land are noted. It has however been confirmed by the applicant that the visibility splays are wholly within the applicants land and as such no third party land is required.
- 6.40 The comments regarding a right of access for boundary maintenance are also noted. This right of access is however a private legal matter rather than an issue that can be taken into consideration in the determination of a planning application.
- 6.41 On this basis I am satisfied that the development would not result in an unacceptable impact on highway safety and the residual cumulative impacts on the road network would not be severe. It would therefore not conflict in any way with Policy SQ8 of the MDE DPD or paragraphs 114-116 of the NPPF.

Archaeological matters

- 6.42 With regard to the impact on potential archaeological remains it is considered unlikely significant industrial heritage archaeology will be impacted by the scheme. There are elements of industrial heritage which merit specialist identification and assessment with options for recording and conserving where possible indicated in the submitted

assessments, but it is considered that such matters can be sought by condition. Similarly, the specialist geoarchaeological and Palaeolithic assessment submitted is considered a suitable base to guide mitigation and further fieldwork. These further matters can be covered by condition.

- 6.43 On this basis it is considered that the works 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 and the NPPF (2023).

Drainage

- 6.44 The site is within flood zone 1 and consequently has a low risk of surface water flooding. The submitted details indicate that drainage will be provided via attenuation basins and deep bore soakaways. Subject to conditions this approach is considered to be acceptable. With regard to foul water drainage this can be achieved with links to the public sewer system.
- 6.45 I am therefore satisfied that, with the suggested conditions, the development would accord with the requirements of Policy CP10 and the NPPF.

Contamination

- 6.46 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.
- 6.47 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.
- 6.48 In terms of land contamination, the submitted Phase 1 Desk Study and Preliminary Risk Assessment is considered to adequately review the history and environmental setting of the site. It adequately reviews the history and environmental setting of the site. Potential sources of contamination have been identified in relation to the site's previous use as an active quarry, and as such an intrusive investigation is recommended. These are considered satisfactory and conditions are proposed

requiring appropriate site investigation and (where necessary) appropriate remediation measures to take place. These conclusions have been agreed by the Council's Environmental Protection officer and accordingly a number of conditions have therefore been recommended to be imposed on any permission granted.

Air Quality

- 6.49 Concerns regarding air quality have been raised. Although monitoring has been undertaken there has not been a need to impose an Air Quality Management area in East Malling village. The quantum of development proposed is not likely to lead to there being a need to do so.

Ecology and Biodiversity

- 6.50 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.
- 6.51 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.
- 6.52 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.
- 6.53 These policies broadly accord with the policies of the NPPF. In particular, paragraph 180 states that planning policies and decisions should contribute to and enhance the natural and local environment by (inter alia) protecting and enhancing sites of biodiversity value and minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 6.54 The site and the surrounding area are not subject to any ecological designations. There are no nearby ecological statutory designated sites, whilst the nearest ecological non-statutory designation is Oaken Wood Local Wildlife Site, 3300m to the south.
- 6.55 Ecological reports have been submitted in support of the application. The findings indicate the site is predominantly a commercial orchard environment, having little ecological value due to the intensive manner in which it is managed (herbicide/pesticide use and high stocking density). The boundary hedgerows are

likely to have relatively high biodiversity value and also likely to be priority habitats. The submitted plans indicate that these boundary hedgerows are to be retained within the landscape buffer and the indicative layout shows that these would be outside domestic curtilages. Subject to the provision and retention of the landscape buffers within the sites biodiversity area 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.

- 6.56 With regard to protected species, the submitted ecological surveys have confirmed that badgers and at least 5 species of foraging bats are present and there is suitable habitat within the site for breeding birds, hedgehogs, reptiles and roosting bats. The survey work has confirmed that there is badger activity on the site and that an outlier sett is present within the site. There is a sett in woodland adjacent to the site and therefore mitigation measures are proposed to ensure that the development does not have a negative impact on badgers. These measures include the 20m ecological buffer to the main sett being comprised of woody planting. It is noted that the outlier sett within the site will need to be closed to enable construction to be carried out and this will be subject to an appropriate licence from Natural England. The application for this will need to be supported by further up to date survey work to ensure that the application is based on the current badger use of the site. Such a licence would need to be sought prior to any works being undertaken on the site and it should be noted that a grant of planning permission does not mean that a licence will automatically be granted.
- 6.57 The opposition to the development due to the presence of the badger sett is noted, however this would only form a reason for refusal if it could not be shown that appropriate mitigation measures could be provided. The KCC Ecology Officer has confirmed that they have no objection to the proposed 20m buffer to the sett. It is therefore considered that following assessment in accordance with all national guidelines the mitigation measures are appropriate to ensure that there is no adverse impact on the badger sett.
- 6.58 Due to the presence of bats and badgers at the site a condition is proposed to ensure that any lighting proposed is appropriately designed to limit the impact on nocturnal species.
- 6.59 The application was submitted prior to the requirement for mandatory biodiversity net gain. The applicants have nevertheless submitted an indicative biodiversity net-gain calculation indicating that a gain of approximately 30% is possible. The mechanism for securing this would be via a condition requiring a Landscape and Ecological Management Plan (LEMP) and such a condition is proposed as part of the recommendation.
- 6.60 The proposed development and mitigation scheme 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 to biodiversity are also proposed, in accordance with NPPF.

6.61 I am therefore satisfied that the development would have a net positive effect on habitats and biodiversity on the site through the provision of enhanced landscaping proposals which would be an overt benefit arising from the development. As such it is considered that the proposals will accord with all relevant national and local planning policy in relation to ecology including Policies NE1-NE4 of the TMBC Local Development Framework Core Strategy and the NPPF.

Developer contributions

6.62 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

6.63 Paragraph 57 of the NPPF reflects this statutory requirement.

6.64 The scheme proposes to provide 40% of the total number of dwellings as affordable housing and therefore accords with Policy CP17 of the TMBCS. The approval of the specific size, type and tenure of affordable housing and implementation of the provision will be secured under a S106 agreement to ensure that the provision comes forward in a manner that reflects and meets local need. The 40% affordable housing shall have a 70/30 split between affordable housing for rent and other affordable housing tenures.

6.65 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.

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

- £268,185.12 towards Secondary education provision
- £229,726.56 towards the provision of land for Secondary education
- £26,871.84 towards Special Education Needs provision
- £1,778.92 towards Community Learning provision.
- £3,554.40 towards Integrated Childrens' Services
- £3,256.76 towards enhancements and additional library book stock
- £9,405.76 towards Adult Social Care
- £2,704 towards waste and recycling provision within the borough.

No contribution is requested toward primary school provision

6.67 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.

6.68 NHS ICB have advised that due to the potential patient numbers a contribution of £52,704 towards refurbishment, reconfiguration and/or extension of Wateringbury and Thornhills Medical Practice and/or towards new general practice premises development in the area should be sought. Again, this requirement is considered to meet the necessary tests and should be secured within the final legal agreement.

6.69 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 and Gardens, Outdoor Sports Facilities and Childrens and Young Peoples Play areas. The final layout and landscape plan is reserved matter and therefore final contributions cannot be applied at this stage but would form wording in a section s106 legal agreement. The approximate level of contribution would be £233,560.

Planning balance and conclusions

6.70 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.

- 6.71 The proposed development would provide a policy compliant development of up to 52 residential dwellings. It would also provide 40% affordable housing on-site which would contribute to addressing a recognised need for affordable housing in the Borough.
- 6.72 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.
- 6.73 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 **Approve Planning Permission** subject to:

7.2 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)
- General medical practice services (NHS ICB)

7.3 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:

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

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

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

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

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

5. Site Levels

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

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

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

Highways/Transport/Parking

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

Thereafter, no permanent development, whether or not permitted by Town and Country Planning (General Permitted Development) Order 2015, shall be carried

out on the land so shown (other than the erection of a private garage or garages) or in such a position as to preclude vehicular access to this reserved parking area.

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

7. No development, other than the demolition of any buildings, removal of hardstanding, ground investigations or site survey works, shall be carried out until details of the proposed car charging points have been submitted to, and approved by the Local Planning Authority. The charging points shall be installed prior to the first occupation of the development, and thereafter maintained and retained in accordance with the approved details.

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

8. The access drive shall be constructed no steeper than 1 in 10 for the first 1.5 metres from the highway boundary and no steeper than 1 in 8 thereafter.

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

9. The access shall not be used until the visibility splays shown on the submitted plans (drawing number: H-01 Rev P4 titled 'Access Proposal') with no obstructions over 0.6 metres above carriageway level within the splays have been provided. The vision splay so created shall be retained at all times thereafter.

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

10. No part of the development shall be occupied prior to the completion of the highways works indicated on drg. no. H-01 Rev P4 'Access Proposal' being completed by the applicant via S278/S38 Agreements and retained thereafter.

Reason: To ensure appropriate delivery of highway improvements required for the development.

11. 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

12. No development shall take place until the details required by Condition 1 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.

13. Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon reviewed the Flood Risk Assessment dated June 2022 prepared by DHA. The submission shall also demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of within the site without increase to flood risk on or off-site.

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

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

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

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

14. No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate 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, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of the National Planning Policy Framework.

15. 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

16. Prior to commencement of development the applicant, or their agents or successors in title, will secure the implementation of

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

ii following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological landscape remains and/or further archaeological landscape investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority

Reason: To ensure that features of archaeological landscape interest are properly examined and recorded and that due regard is had to the preservation in situ of important archaeological landscape remains and where possible the integration of key landscape features in the detailed masterplan and landscape design.

17. Prior to the commencement of development the applicant, or their agents or successors in title, will secure:

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;

iii programme of post excavation assessment and publication.

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

Contamination

18. No development shall take place other than as required as part of any relevant approved site investigation works until the following have been submitted to and approved by the Local Planning Authority:

a) results of the site investigations (including any necessary intrusive investigations) and a risk assessment of the degree and nature of any contamination on site and the impact on human health, controlled waters and the wider environment. These results shall include a detailed remediation method statement informed by the site investigation results and associated risk assessment, which details how the site will be made suitable for its approved end use through removal or mitigation measures. The method statement must include details of all works to be undertaken, proposed remediation objectives, remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site cannot be determined as Contaminated Land as defined under Part 2A of the Environmental Protection Act 1990 (or as otherwise amended).

The submitted scheme shall include details of arrangements for responding to any discovery of unforeseen contamination during the undertaking hereby permitted. Such arrangements shall include a requirement to notify the Local Planning Authority in writing of the presence of any such unforeseen contamination along with a timetable of works to be undertaken to make the site suitable for its approved end use.

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

Reason: In the interests of amenity, public safety and human health and in accordance with paragraph 174 of the National Planning Policy Framework (2023).

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

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

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

Reason: In the interests of amenity, public safety and human health and in accordance with paragraph 174 of the National Planning Policy Framework (2023).

20. 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.

21. 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 and landscaping

22. 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.

23. 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.

24. The development hereby approved shall be carried out in such a manner that all trees are protected in accordance with the recommendations within BS 5837 – Trees in relation to design, demolition and construction.

Reason: In the interests of good horticultural practice.

Biodiversity

25. 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)

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

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

27. With the first detailed application, a Landscape and Ecological Management Plan (LEMP) will be submitted to, and be approved by, the local planning authority. The content of the LEMP will be based on the Defra Biodiversity Net-Gain metric calculations and include the following.

- Full Defra biodiversity net-gain calculations;
- Description and evaluation of features to be created and managed;
- Ecological trends and 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;

- Details of the body or organisation responsible for implementation of the plan, and;
- Ongoing monitoring and remedial measures.

The LEMP shall also 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: 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.

28. Prior to the first occupation of the residential development, the buffer zone illustrated on plan reference Ivy Farm Parameter Plan (Ref 21.094-50- Rev B) shall be defined and clearly laid out for the intended purpose of creating an ecological/landscape buffer zone. The final appearance of the buffer shall be subject to the written approval by the Local planning authority in accordance with the Landscape and Ecological Management Plan subject of condition 27 of this outline planning approval.

Reason: to retain connectivity for animals such as the badger and other species.

Other Material Matters

29. Prior to the first occupation of the development hereby approved, a noise report detailing the current noise climate at the proposed site due to the close proximity of Watlington Road. The report should consider the levels cited in BS8233:2014, namely:

1. for gardens and other outdoor spaces, in particular those in para 7.7.3.2 which states a desirable limit of 50dB LAeq,16-hour, and a maximum upper limit of 55dB LAeq,16-hour; and
2. to at least secure 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 (ref para 7.7.2). Particular attention is drawn to the notes accompanying Table 4 in para 7.7.2 and that these levels need to be achieved with windows at least partially open, unless satisfactory alternative means of ventilation is to be provided.

The Applicant's attention is also drawn to the ProPG on Planning and Noise issued by the Association of Noise Consultants (ANC), the Institute of Acoustics (IoA) & the Chartered Institute of Environmental Health (CIEH).

The report should also detail any mitigation/attenuation measure needed to attain the abovementioned levels. It is important that the applicant's noise assessment includes specific data and we will require these details for approval

before any decision can be made. Specific details of any necessary noise insulation/attenuation requirements (e.g. acoustic glazing, acoustically screened mechanical ventilation, etc) will also need to be submitted for approval.

Reason: To safeguard the aural amenity of the occupiers of the dwellings hereby approved.

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 global competitiveness.

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.

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.

Contact: Robin Gilbert

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Appendix 1

East Malling and Larkfield PC Comments

03.06.24

1. The Parish Council has noted the revised site layout plans which are for illustrative purposes only in respect of this outline application.
2. The neighbour at 161, points out the revised plan is not up-to-date as it does not show the extra land he purchased to the south of the property. This area of land should not therefore form part of the application and as we understand it no notice of this application has been served on the owners of 161.
3. The above point is crucial if the applicant's proposed road access affects that land including any site lines.
4. We are also concerned the difference in land levels should be fully recognised. This is particularly an issue for the Parish Council given the experience at Forty Acres site where this was not apparently appreciated when the developer submitted and the KCC as Highway Authority accepted plans for the access onto the A20.
5. We also note the Transport Assessment submitted with the Gladman application for 150 homes south of Clare Lane, East Malling, KCC say "even a modest increase in traffic volumes (on High Street and Mill Street) has the potential to significantly impact upon overall levels of highway safety". (Our underlining). This site is of course directly creating traffic to go north along the constricted High Street and Chapel Street.
6. The Parish Council is aware from residents there are badgers both within and around the site. It is not clear how their habitat is to be protected.
7. The Council also wish to take the opportunity to re-stress it considers this application is detrimental to the village Conservation Area and its Heritage Assets. East Malling is an historic village based on the stream running north from Gilletts Pond. The "dig" currently unearthing more Roman foundations just north of the railway station on Parish Council owned land points to the age of the settlement based on the stream. This application, if approved, would affect the rural setting and it is considered should be refused on this basis.

Comments 17.03.23

As a further comment we would ask in considering this application the correct location and effect of the entrance road is considered.

This should not involve the extended garden of 51, Wateringbury Road as shown on the site plan.

It should also be clear the access road and its site lines would involve the removal of some of the trees along the boundary with Wateringbury Road.

Comments 01.11.22

In June this year East Malling and Larkfield Parish Council commissioned traffic surveys on Wateringbury Road, Chapel Street and High Street East Malling. Please find attached 3 reports setting out the traffic data collected during the period 21st – 27th June 2022.

The 3 sites are identified:

1. TW200622-01 114 Wateringbury Road i.e. Wateringbury Road north of Huntley Cottage and the road narrowing feature
2. TW200622-02 43 Chapel Street i.e. outside Manningham House
3. TW200622-03 42 High Street

We are not traffic experts but we have carried out some analysis of the data. For the period Monday – Friday the volume of southbound traffic on Chapel Street and Wateringbury Road exceeds northbound traffic by around 1400-1500 movements per week. Conversely, on High Street northbound traffic exceeds southbound traffic by about 1000 movements per week. No doubt this is a reflection of the number of vehicles joining from The Rocks Road and might imply that local residents tend to head northwards towards the A20 and that the greater volume of southbound traffic on Chapel Street and Wateringbury Road is a result of wider 'through traffic'. In turn, that would imply that the majority of traffic exiting the development will head through the narrow and congested Chapel Street and High Street, adding to existing problems.

We calculate that there are up to around 600 combined traffic movements in High Street for each hour between 7am and 9am and up to 575 for each hour between 2pm and 7pm (bearing in mind that traffic begins to build on this route for the school

run before 3pm). That is a considerable volume of vehicles passing along this constrained route, negotiating narrow sections of road and parked vehicles, resulting in congestion and, we believe, air quality issues. We are very concerned about the further pressures that will be placed on this route as a result of this development. Despite the applicant's assertions, the site is not within a suitable walking distance of local shops and schools and we feel residents will be highly reliant on cars to get about particularly as the pavements in Chapel Street and High Street are very narrow and often blocked by parked vehicles or vehicles mounting the pavement to create space for larger vehicles to pass in the narrowest sections.

In terms of speed, some drivers are reaching significantly high speeds at all three sites. We observe that at site 2 (Manningham House) some 79% of vehicles overall are exceeding the 20mph limit including 87% of southbound traffic i.e. traffic that is heading towards the speed table and some 238 vehicles heading north through site 1 (north of Huntley Cottage) are travelling over 50 mph i.e. heading northwards towards the speed table - that is, there are issues with vehicle speed on both approaches to the proposed site entrance. This should be taken into account when consider sight lines.

Comments 05.09.22

1. These comments are to supplement those previously lodged and particularly regarding heritage and landscape issues.

2. The site is close to the East Malling Conservation area which was first designated by Kent County Council on the 16th April 1971 and extended on 13th May 1975. The initial area covered that part of the original village north of the railway with the area around the crossroads with the village green, king and Queen public house, and Church Walk leading up to St James Church. And the area extended southwards up to the railway covering the ascending high Street with its several listed buildings.

The 1975 extension was to include the west side of Chapel street up to listed Ivy house farm with its splendid barn and the old village school now Manningham House. And then a further extension was made to include Rocks Road. Once just called "The Rocks" this took in Paris House with its walled garden and Rocks Farmhouse with the ragstone walls typical of east Malling.

3. East Malling has many listed buildings showing it is an ancient village based on the stream that emerges in Gilletts hole, Gilletts Lane which runs down the side of Rocks Road through the back gardens of the houses to the east of the High street emerging at a "dip hole" in Church Walk before going through the garden of Court lodge on its way to Bradbourne House lake. For the record the listed buildings nearest to this proposed site are:

122 Watringbury Road (not Chapel street as per Huck Group) this is on west side of the road as one approaches the site from the south.

14 and 16 Chapel Street.

The Limes and the wall to the north east.

Ivy house farm and its barn. This described as “one of the finest farmhouses in Kent” by Arthur Mee in his Kent book published in October 1949 (impression)

Tamarisk cottage

Kinross cottage.

4. Locally Important buildings.

The Parish Council consider that the two oasts with complete roundels and cowl being part of Ivy house Farm and with that building have important group value as part of the traditional hop farms once found across Kent. Indeed it is noted the copy old maps going back to the tithe map of 1839 show the hop fields that previously existed around East Malling including this site And of course fruit. And also the buildings now known as Manning house, once the village school, dated back to 1849.

5. It is the Parish Council's view that developing this site would have a harmful effect on the designated Conservation Area as it would change the approach to the village from the south from a rural countryside one to a more urban one out of keeping with this historic street scene marked by the village entry of Ivy House Farm complex.

6. This entrance is virtually unchanged going back to the Tithe map and beyond. At present there is a clear sense of moving from the countryside into the historic village with its narrow Chapel Street. It is appreciated the development would be landscaped and set back but it would still be a change with a new entry access road no doubt with site lines and street lights within the new housing layout.

7. Section 106 Agreements. The applicants list is noted but should this development be approved there is no play area within the site and we feel it would be inappropriate to have one though we ask there would be an agreement to secure the community orchard and the open space including future maintenance. There is the parish councils playing fields close to the King and Queen and there is a need for outside gym equipment there.

Comments 22.08.22

Further to point 5 of our interim comments relating to public path MR107 a copy, as an example of walks using this path, issued by the Borough Council in 1993, is attached.

It is noted the walk also mentions the former school, now Manningham House, which the Parish Council considers to be a locally important building dating back to 1849. Also the Oasts as shown with Listed Ivy House as a group.

Comments 18.08.22

1. The Parish Council wishes to make these interim comments members having read the various responses so far and the documents submitted.
2. It is aware the local members have asked this matter to be reported to the area committee which it supports. However, it is also of the view that looking at pages 126 and 127 of the borough constitution that the application should be reported to the committee as it is a departure from the adopted plans and policies forming part of the statutory Development Plan and none of the exemptions apply.
3. The Parish Council considers the starting point continues to be the existing adopted plan, namely the local plan of 2007 and in particular but not solely policy CP 24. It recognizes given the fact the borough apparently does not have a 5 year residential land supply and the Local Plan is not up-to-date the so called "tilted balance" needs to be applied.
4. It is considered that the plan submitted is clearly on land forming part of the countryside and there are landscape effects as well as most importantly on the East Malling Conservation area plus the nearby listed and heritage buildings. A detailed statement of the Council's case will follow.
5. It is also concerned that there will be an effect on the enjoyment of the users of public footpath MR 107 from rocks Road to sweets Lane as instead of having completely countryside views they will have a view of a housing estate to the west .This path appears on many local guides including some issued in the past by the Borough Council.
6. It is noted that Environmental Health are asking for an Air Quality Assessment and the Parish Council supports that request.
7. The Parish Council has also noted that the CPRE request the application be withdrawn until all the ecological reports are available and that clearly needs a response. If permission were given subject to a condition they be produced later it is questioned if this would in practice be effective.

8. For the record as others have stated there appear to be badgers on and around the site.

9. There is a lot of concern about the highway impacts of the development given the restricted nature of the roads to the south where we think it is accepted traffic generated from the site is likely to go to gain access to the A20 at New road junction and the M20 beyond as well as the supermarkets and other facilities at Larkfield. But the route through down via Chapel Street and High Street with it height restricted railway bridge plus parked cars with narrow or no pavements in part is we feel not suitable to accommodate further traffic. At peak times there is often local gridlock and we cannot see any practical way to improve matters. The Highway authority needs to assess this problem. It is of course due to this situation there is a 20mph limit and lorry restriction applying.

10. Lastly, we question how sustainable this site is given that whilst there is East Malling station it only has trains stopping hourly; there is no bus service save the 58 whose future is in doubt; and there are no shops in the village. In reality if permission is given then the house occupiers are likely to be car based.

Thank you for your consultation in relation to the above planning application. I have the following comments to make with respect to highway matters :

Introduction

The proposals seek permission for the erection of up to 52 residential dwellings, including affordable housing, open space and landscaping, roads, parking, drainage, earthworks and a new access to be formed from Waterringbury Road.

Kent County Council (KCC) Highways note that a Transport Statement (TS) has been submitted in support of the proposals, which was produced by DHA Consultants. I can confirm that the development has been the subject of pre-application discussions, which is appended to the TS.

I have the following highway comments to make in respect of the development:

Access

Vehicular

Access is proposed via a singular all-purpose vehicular access onto the C254, Waterringbury Road. Contrary to the requirements of the Kent Design Guide (KDG) for a Major Access Road (MAR), which can serve between 50 and 300 dwellings the applicant is not proposing to provide an emergency access. The site access strategy should be reassessed to ensure compliance with the requirements of the KDG, as well as in the interests of network resilience.

Visibility sight lines of 2.4 meters by 17 meters are proposed at the site access. This is on the basis that the existing speed limit will be amended to incorporate the site access and it is

therefore acceptable to provide visibility splays for a posted speed limit of 20 miles per hour (*mph*).

Although KCC Highways consider the extension of the existing speed limit to incorporate the potential new built-up area to be sensible, Table 7.1 of Manual for Streets (*MfS*) requires visibility sight lines of 2.4 by 25 meters for speeds of 20 mph. Visibility splays that are compliant with *MfS* are required.

Whilst the applicant is seeking to amend the existing 20 mph zone given the modest nature of the extension, approximately 10 meters to the south, amendments to the existing Traffic Regulation Order (*TRO*) are not required in this instance. All other works, including the extension of the existing raised table can be secured via a S278 agreement with this authority.

The site access arrangements are not supported by a stage 1 independent Road Safety Audit (*RSA*), or corresponding designer's response. As the proposals seek amendments to the existing highway layout a stage 1 *RSA* and supporting designer's response is required.

Finally, no swept path analysis for the largest vehicle expected to require access to the site has been provided. The suitability of the access for such sized vehicles is therefore unclear. KCC Highways also note that whilst the TS indicates that the applicant is willing to bring forward a package of off-site highway improvements, in line with the local Parish Council's Highway Improvement Plan (*HIP*), it does not confirm what works may be brought forward. This requires clarification.

Pedestrian

To ensure safe pedestrian connectivity the applicant is proposing a connection with the existing footway on the east side of Watlington Road, thereby allowing connections with East Malling Village Centre and its associated facilities. Whilst the footway itself is below desirable widths, it does provide a dedicated pedestrian route. No measures, including localised widening, are proposed by the applicant to cater for any additional demand that may be generated by the development.

Sustainability

Walking and Cycling

The site is located on the far extents of the existing built-up area, approximately 550 meters from East Malling Railway Station. Although the site does benefit from an existing footway that provides continuous connections to East Malling Village centre, its narrow width will to some extent discourage pedestrian trips.

Whilst East Malling does also contain some existing facilities such as a school, small convenience store and local pub that will to some degree meets residents' day to day needs, given the modest nature of these services residents are also likely to require the use of further afield facilities to supplement day to day needs.

Public Transport

The applicant has concluded that the site offers good opportunities for travel by sustainable modes, owing to its proximity to East Malling train station and the bus stops in East Malling village centre. KCC Highways disagree with this conclusion, as whilst there are existing train stations and bus stops within walking distance that can be safely accessed, they are only

served by an infrequent range of services, even at peak times. It is therefore considered that sustainable transport will have a limited role in meeting the development's travel demands.

Trip Generation Forecasts

The development is anticipated to generate 24 two-way movements (*combined arrivals and departures*) in the AM peak (08:00-09:00) and 26 two-way movements in the PM peak (17:00-18:00).

Of the 52 dwellings that are proposed the applicant is proposing that 13 (25%) would be affordable. The applicant has therefore provided separate forecasts for the private and social housing element of the development. Should the proposed housing schedule change then the forecasts presented in the TS would become invalid.

To derive the trip generation forecasts the applicant has utilized the TRICS database. This is a methodology that is commonly used and underpinned by independent surveys of developments with a range of locational characteristics. In this instance the applicant has focused on sites in a 'neighbourhood' or 'suburban' location. KCC Highways consider such site selection parameters to be acceptable for assessment purposes.

Trip Distribution and Assignment

To determine how the development traffic is likely to distribute across the highway network the applicant has undertaken a trip distribution exercise. Census Travel to Work data for the Middle Super Output Area (MSOA) that the development is located in has been utilised in conjunction with a real time journey planner for assignment purposes. KCC Highways consider adoption of this methodology to be acceptable, as it is reasonable to assume that the travel patterns of the new development will be similar to that of the existing community.

Of the 24 AM peak hour trips the majority (21) are expected to route north via East Malling High Street, with the remaining (5) routing south anticipated to route south via Wateringbury crossroads, or Malling Road. A similar pattern is expected in the PM peak.

Off-Site Highway Impacts

Applying the applicant's distribution assumptions, the amount of additional traffic that will route through East Malling High Street equates to approximately 1 vehicle every 3 minutes. Whilst the applicant has not undertaken a percentage impact assessment to determine the increases upon existing traffic flows, KCC Highways consider the likely increase in traffic to be modest.

KCC Highways acknowledge that some sections of East Malling High Street contain existing on street parking arrangements which to some extent interrupt the flow of traffic, owing to traffic travelling in opposing directions having to give way to each other.

However, East Malling High Street exhibits a good personal injury collision record. There is therefore no evidence to demonstrate that the limited levels of additional traffic that the development will generate will adversely impact upon overall levels of highway safety.

In addition, whilst the presence of on street parking to some degree impacts upon the free flow of traffic, it does also encourage lower vehicle speeds. On this basis KCC Highways do not consider the impact of the additional traffic on East Malling High Street would worsen conditions to an extent that could be reasonably described as 'severe.'

Wateringbury crossroads is a junction that has been subject to long standing congestion problems. Although KCC Highways have previously consulted upon possible improvements to

alleviate the congestion that is known to occur at this location, they have not been supported locally. KCC Highways currently have no intentions of bringing forward any amendments to the existing junction layout.

In recognition of the need to assess the likely impact of the development upon this existing congestion hot spot, the applicant has forecast the amount of additional traffic anticipated to route through the junction because of the development. The development is anticipated to generate no more than 4 movements through the junction at peak times. KCC Highways consider that such levels of additional traffic will be well within daily fluctuations. On this basis it is the view of the highway authority that a congestion-based objection would not be reasonable or sustainable.

Personal Injury Collision Record (PIC)

PIC for the access and the area within its immediate proximity for the period up to 30th September 2021 has been obtained by the applicant. During the period in question 8 collisions were recorded, 2 of these collisions were serious in severity. One of the serious collisions occurred on Wateringbury Road itself with the other occurring at Sweets Lane/Wateringbury Road crossroads. Neither the highway layout nor a defect within it were a contributory factor in either of the recorded collisions.

Although a number of collisions (*6 in total*) are clustered at Sweet's Lane junction with Waterinbury Road and near to 'Ivy Farm,' driver/rider error was a contributory factor in a significant proportion of the collisions. Given the limited number of collisions during the period in question it is not considered that the proposals will exacerbate any pre-existing highway safety problems.

Internal Layout, Turning and Servicing and Parking

As this application is in outline form only, only the principle of the development is being considered. KCC Highways therefore have no comments to make in respect of the development's internal layout, turning, servicing and parking provision, as these will be the subject of separate reserved matter applications, should permission be granted.

Summary and Recommendation

I wish to raise a **holding objection** to the proposals on the basis that the applicant should provide the following additional information:

- An amended access strategy that includes an additional emergency only access;
- Provision of visibility sight lines commensurate with Table 7.1 of MfS;
- Submission of swept path analysis for the largest vehicle expected to require access to the site;
- Confirmation of the package of off-site highway works it is intended to bring forward as part of the planning application;
- Submission of a stage 1 RSA and supporting designer's response for the proposed site access and any off-site highway works.

Informative: It is important to note that planning 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 planning permission has been granted. For this reason, anyone considering works which may affect the public highway, including any highway-owned street furniture, is advised to engage with KCC Highways and Transportation at an early stage in the design process.

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 Kent County Council whilst some is owned by third party owners. Irrespective of the ownership, this land may have highway rights over the topsoil.

Works on private land may also affect the public highway. These include works to cellars, to retaining walls which support the highway or land above the highway, and to balconies, signs or other structures which project over the highway. Such works also require the approval of the Highway Authority.

Kent County Council has now introduced a formal technical approval process for new or altered highway assets, with the aim of improving future maintainability. This process applies to all development works affecting the public highway other than applications for vehicle crossings, which are covered by a separate approval process.

Should the development be approved by the Planning Authority, it is the responsibility of the applicant to ensure, before the development is commenced, that 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 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.

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 Kent County Council's website: <https://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/highways-permissions-and-technical-guidance>. Alternatively, KCC Highways and Transportation may be contacted by telephone: 03000 418181

04.07.23

Thank you for your consultation in relation to the above planning application. I have the following comments to make with respect to highway matters :

Introduction

Kent County Council (KCC) Highways note that in response to this authority's initial consultation response (*dated September 2022*) the applicant has submitted additional highway information. I have the following highway comments to make in respect of it:

Access

Vehicular

The applicant has declined to amend the access strategy to include the requisite secondary emergency only access. This is on the basis that the quantum of development that permission is sought for is only marginally over the threshold for an emergency access, with the fact that only outline permission is sought offering potentially for a looped arrangement, as part future reserved matters applications.

Although KCC Highways consider that for network resilience, as well as emergency access reasons, a secondary emergency access would be preferential in accordance with the requirements of the Kent Design Guide (KDG), its absence is not considered a sustainable reason for refusal in isolation. To confirm the suitability of the site access strategy for their requirements Kent Fire and Rescue Service should be consulted.

KCC Highways welcomes the applicant's confirmation that the visibility sight lines proposed from the site access have been amended in accordance with the requirements of the road's

posted speed limit. These are shown on the revised site access drawing (*drawing number: H-01 Rev P4 titled 'Access Proposal'*) and are acceptable to KCC Highways.

It also noted that the previously requested swept path analysis has now been provided. This analysis confirms that the largest vehicle expected to require access to the site (*a refuse freighter*), would be required to overrun adjacent traffic lanes whilst manoeuvring in and out the site. The further information does not confirm if it possible to eliminate this hazard via amendments to the site access junction, including increased junction radii or overrunable areas.

Whilst it is considered that the optimum solution would be to amend the junction to fully accommodate the manoeuvres of refuse vehicles, KCC Highways remain mindful of the infrequent nature of such vehicles. As such, the junction arrangement is considered acceptable in this instance, particularly given how it will accommodate all other vehicle types.

Finally, it is noted that has now confirmed the package of off-site highways that are to be offered as part of the planning application. These include: additional road markings on Chapel Street, extension of the existing 20mph speed limit, introduction of a raised table feature at the site access and the enhancement and the change of priority of the existing narrowing feature to reduce traffic speeds on the approach to East Malling village centre.

As requested in this authority's initial consultation response these works, as well as the proposed site access, have now been subject to an independent stage 1 Road Safety Audit (RSA). The RSA has raised 5 problems. In all instances the applicant has accepted the auditor's recommendation and incorporated it into their final proposals.

Summary and Recommendation

I refer to the above planning application and having considered the development proposals and the effect on the highway network, raise no objection on behalf of the local highway authority, subject to the following conditions:

-Submission of a Construction Management Plan before the commencement of any development on site to include the following:

- (a) Routing of construction and delivery vehicles to / from site
- (b) Parking and turning areas for construction and delivery vehicles and site personnel
- (c) Timing of deliveries
- (d) Provision of wheel washing facilities
- (e) Temporary traffic management / signage

-Provision of measures to prevent the discharge of surface water onto the highway.

-All Electric Vehicle chargers provided for homeowners in residential developments must 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>

-Use of a bound surface for the first 5 metres of the access from the edge of the highway.

-Completion and maintenance of the access shown on the submitted plans (*drawing number: H-01 Rev P4 titled 'Access Proposal'*) prior to the use of the site commencing.

-Gradient of the access to be no steeper than 1 in 10 for the first 1.5 metres from the highway

boundary and no steeper than 1 in 8 thereafter.

-Provision and maintenance of the visibility splays shown on the submitted plans (*drawing number: H-01 Rev P4 titled 'Access Proposal'*) with no obstructions over 0.6 metres above carriageway level within the splays, prior to the use of the site commencing.

Informative: It is important to note that planning 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 planning permission has been granted. For this reason, anyone considering works which may affect the public highway, including any highway-owned street furniture, is advised to engage with KCC Highways and Transportation at an early stage in the design process.

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 Kent County Council whilst some is owned by third party owners. Irrespective of the ownership, this land may have highway rights over the topsoil.

Works on private land may also affect the public highway. These include works to cellars, to retaining walls which support the highway or land above the highway, and to balconies, signs or other structures which project over the highway. Such works also require the approval of the Highway Authority.

Kent County Council has now introduced a formal technical approval process for new or altered highway assets, with the aim of improving future maintainability. This process applies to all development works affecting the public highway other than applications for vehicle crossings, which are covered by a separate approval process.

Should the development be approved by the Planning Authority, it is the responsibility of the applicant to ensure, before the development is commenced, that 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 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.

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 Kent County Council's website: <https://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/highways-permissions-and-technical-guidance>. Alternatively, KCC Highways and Transportation may be contacted by telephone: 03000 418181

06.08.24

Thank you for your consultation in relation to the above planning application. I have the following comments to make with respect to highway matters :-

Having reviewed the planning portal their appears to be no new information relevant to highways. I can therefore confirm that this authority's position remains as set out in the response of 4th July 2023.

It is important to note that 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.

For this reason, 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.

Across the county there are pieces of land next to private homes and gardens and near the highway that do not look like roads or pavements but are actually part of the public highway.

Some of this highway land is owned by Kent County Council whilst some is owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil.

Works on private land may also affect the public highway. These include works to cellars, to retaining walls which support the highway or land above the highway, and to balconies, signs or

other structures which project over the highway. Such works also require the approval of the Highway Authority.

Kent County Council has now 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 our website below:

<https://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/highways-permissions-and-technical-guidance>.

This process applies to all development works affecting the public highway other than applications for vehicle crossings, which are covered by a separate approval process. Further details on this are available on our website below:

<https://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/apply-for-a-dropped-kerb/dropped-kerb-contractor-information>

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.

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.

Further 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 Kent County Council's website:

<https://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/highways-permissions-and-technical-guidance>. Alternatively, KCC Highways and Transportation may be contacted by telephone: 03000 418181.



The countryside charity
Kent

TM/22/01570

Ivy Farm, Wateringbury Road, East Malling

Formed in 1926, CPRE is a registered charity and one of the longest established and most respected environmental groups in England, with over 40,000 members and supporters living in our cities, towns, villages and the countryside. CPRE Kent is the largest of the CPRE County branches with over 2,300 members, including 150 parish councils, civic societies and other Kent organisations and companies.

Our vision is of a beautiful and thriving countryside that enriches all our lives, and our mission is to promote, enhance and protect that countryside.

CPRE Kent objects to this planning application on the following grounds:

- Site is not allocated for development
- Loss of Best and Most Versatile agricultural land
- Impact on ecology – survey work has not been completed
- Lack of affordable housing

Not allocated for development

CPRE Kent is of the firm view that new housing sites should be properly tested and agreed through a democratic and transparent plan-led system, with phasing policies used to ensure that brownfield sites are developed before greenfield ones. It is therefore disheartening to see this site coming forward ahead of the necessary scrutiny afforded by the Local Plan process.

Loss of Best and Most Versatile Agricultural Land

Development in this location would result in the loss of Grade 2 Agricultural Land.

Paragraph 174(b) of the NPPF requires that planning decisions should contribute to and enhance the natural and local environment by 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.

Best and most versatile agricultural land is needed to help feed the Country's population. Recent world events are now underlining the need to protect such land. The loss of such an important resource will compromise the ability of future generations to meet their own needs contrary to the NPPF.

Impact on ecology

Notwithstanding the above comments, in principle CPRE Kent welcomes the proposed 30% Biodiversity Net Gain. In the event that planning permission is granted it should be ensured that this level of BNG is not reduced.

However, CPRE Kent has significant concerns over the status of the applicant's Ecological Appraisal.

It is noted that the Phase 1 habitat survey was undertaken outside the optimal season (in February 2022) and that the required additional Phase 2 surveys for foraging and commuting bats and Dormouse are not due for completion until the autumn of 2022 (see paragraphs 2.4.1 and 2.3.8).

Without the necessary surveys it is not clear how the applicant can state there will be a Biodiversity Net Gain of above 10%.

Table 6.2.14 will need amending once the Phase 1 habitat survey has been completed within the optimal season and completion of the Phase 2 surveys.

The application should therefore be **withdrawn** until all such survey work has been completed.

In terms of mitigation, it is not clear what the interrelationship will be between land identified for BNG, SUDS and open space.

Each of the mitigated species will have specific habitat requirements, which will need to be separate from one another (predators) and in no circumstances should have a dual role as public open/recreational space where significant disturbance will take place as a result of human activity, including general play, dog walking and cat prowling.

Affordable housing and housing mix

It is noted that the application is proposing 25% affordable housing, which falls well below the 40% requirement set out at policy CP17 of the Council's 2017 Core Strategy.

The applicant has not explained why this requirement cannot be met.

It is noted that the proposed housing mix is predominantly 3 & 4 bedroom houses which does not reflect the shortage of 1 & 2 bedroom accommodation in the area.



The countryside charity Kent

TM/22/01570

Ivy Farm, Wateringbury Road, East Malling

Following the receipt of the additional Phase II survey results from Aspect Ecology, CPRE Kent wishes to reiterate its original objections to this scheme:

- Site is not allocated for development
- Loss of Best and Most Versatile agricultural land
- Impact on ecology – survey work has not been completed
- Lack of affordable housing

With specific reference to ecology (and the Phase II survey work) we comment as follows.

Dormice

Paragraph 3.1.4 of the Phase II Survey Results concludes an absence of dormice from the site. However, it is noted at paragraph 2.4.2 of the original Ecological Appraisal that the detectability of invasive species does not necessarily equate to absence on site. It is not clear why the same logic has not been applied to dormice, especially when this view has been reached without any survey having been carried out within the woodland on site, or along H8.

The dormouse handbook states: *“The presence of dormice should be assumed in any areas of woody habitat (including plantations, hedgerow and scrub”.*

There appears to have been no visual searching for field signs carried out. The conclusion of absence is based solely on just three visits of nesting tubes, placed in-situ less than three months prior to checking.

It is noted that Aspect Ecology checked the tubes on 10 June, 11 July and 14 September, missing out the optimal months of May and August.

On this point, the dormouse handbook states: *“Nest tubes are most frequently occupied in May and August/September. Timing their deployment is therefore important.*

It is best to leave them out for the entire season, from March onwards, for checking in November”.

It would appear that best practice has not been followed with regard to dormice in this instance, or a cautionary approach adopted with regard to the conclusions reached.

Bats

On the issue of background records, paragraph 3.2.2 of the Phase II Survey Results states that presence of bats (Brown Long-eared Bat, *Plecotus auratus*) is likely to be attributed to an undisclosed property – the last sentence of this paragraph hasn't been completed.

This statement is misleading. There is no evidence that this record relates to this unidentified property. It may well relate to an area much closer to the application site. In any event, bats are mobile. This means that the existence of a record of bats at an off-site location is meaningless, in the context of the likelihood of bats being found on site.

Paragraph 3.2.11 of the survey report states that the centre of the site is “*of lower value for foraging and commuting bats*”. We assume this is referring to H8 that is to be removed under the current application.

It’s important to evaluate the site as a whole. Each area/feature is significant and contributes to the value of the site as a foraging corridor for bats. The survey results show the whole site is of value and utilised by bats and it is unhelpful and misleading to pick out one area or feature in isolation.

If H8 was to be removed this would greatly increase the competition in and around the site for food resources, likely resulting in some species of bat being out-competed, leading to an overall loss in biodiversity.

The lighting scheme aims to minimise disruption to foraging bats. However, some species of bat will cluster around lights because certain insects are attracted to the light; whereas other species of bat are likely to shy away from any lit areas, despite the suggestion of dimming and angling of lighting structures.

The retention of H8 would help alleviate this issue to a degree, but under the current proposals, there is no buffer or hedge to prevent light spill.

According to research undertaken by the Bat Conservation Trust (BCT) and CPRE only a fifth of England now has ‘pristine night skies’. Light pollution increases bats likelihood of predation, forcing them to alter their behaviour in response to this threat, including affecting their foraging behaviour.

Long-eared bats (Myotis species – Brandt’s, Whiskered, Daubenton’s, Natterer’s and Bechstein’s bat, Barbastelle and Greater/Lesser horseshoe bats) avoid artificial light at night (ALAN). Therefore, these species are placed at a disadvantage and are subsequently less able to forage successfully and efficiently, which has a profound impact on their fitness and ability to breed.

The BCT state research has shown that ALAN placed along or near hedgerows can disrupt how bats move through the landscape and can even cut off bats from reaching foraging areas.

Therefore, any kind of ALAN is a disrupter of nature and should be avoided.

Additional comments Ecological Appraisal – mitigation for bats and BNG

Aspect Ecology concludes its Phase 1 habitat survey by stating it has been: “... *established that the site is dominated by habitats not considered to be of ecological importance*”. Despite priority habitats being present and despite the site supporting over 50% of the UK bat species.

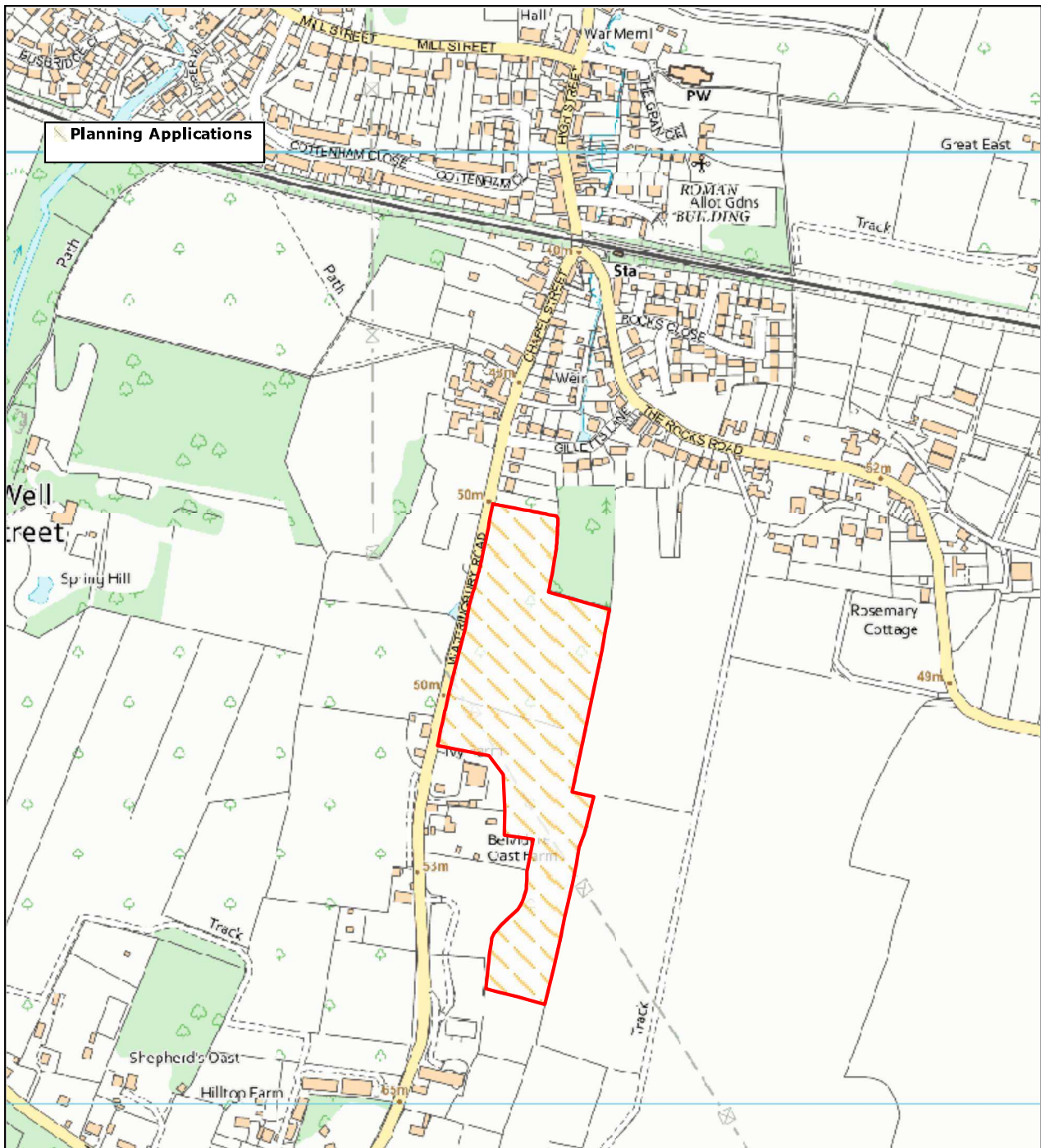
Whilst bat boxes, hedgehog nest domes, bird boxes, refugia, log piles and bee bricks are all welcome, none of them should count towards 10% BNG. BNG measures habitat and not individual species. Furthermore, mitigation is in addition to BNG and should not be included in the calculation.

With the loss of H8 and the partial loss of H7 and the loss of available foraging areas for bats, this development is likely to result in a net loss in BNG.

Furthermore, Aspect Ecology has omitted to address the issue of predation of reptiles, amphibians, birds and bats by domestic cats and recreational disturbance by humans and dogs, especially walking in the available woodland.

We are also concerned that gardens have been included within the BNG – there is no control over how these gardens will be managed by future occupants, for instance they could be paved over, sprayed with insecticide or covered with artificial grass.

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Planning Applications 22/01570/OA

Scale: 1:5000



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Date: 12/9/2024 14:09

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Planning Committee Area 2

Planning Appeal Decisions for Area 2 (03.01.25 – 10.02.25)

TMBC Ref	23/02001/FL
PINS Ref	APP/H2265/D/24/3346368
Site Address	Park Head Cottage Wrotham Hill Road Sevenoaks TN15 7QA
Description of development	Demolition of existing single bay brick, flat roofed garage and replacement with two bay timber framed pitched roof garage
Delegated or Committee Decision	Delegated Decision
Appeal Outcome	Appeal Dismissed 29 Jan 2025
<i>Insert hyperlink to decision</i>	Appeal Decision
Costs Awarded	Not Applicable

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Agenda Item 9

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

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

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By virtue of paragraph(s) 5 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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