



# TONBRIDGE & MALLING BOROUGH COUNCIL

## EXECUTIVE SERVICES

---

**Chief Executive**  
Damian Roberts

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

---

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

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

29 July 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 the Council Chamber, Gibson Drive, Kings Hill on Wednesday, 6th August, 2025 commencing at 7.30 pm.

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

Information on how to observe the meeting will be published on the Council's website. Deposited plans can be viewed online by using [Public Access](#).

Yours faithfully

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 - 10

To confirm as a correct record the Minutes of the meeting of Area 2 Planning Committee held on 25 June 2025

5. Glossary and Supplementary Matters 11 - 18

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

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

### **Matters for Decision under Delegated Powers (In accordance with Part 3 of the Constitution)**

6. TM/25/00501/PA - Former Ryarsh Place Farm, Birling Road, 19 - 58  
Ryarsh, West Malling

Outline Application: all matters reserved except for access, layout and scale for the demolition of an existing range of modern agricultural buildings and the redevelopment of site with five dwellings (Two single storey and three two storey) together with associated car ports, hardstandings for car parking and turning, landscaping works and the conversion of an existing former stable building into an ancillary domestic outbuilding works.

7. TM/24/01923/PA - Land East of Land Known as Mumbles Farm, 59 - 68  
Crouch Lane, Borough Green, Sevenoaks

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

8. TM/24/01969/PA - 2 Baywell, Leybourne, West Malling 69 - 90

Outline Application: all matters reserved for: Demolition of existing garage and erection of new detached self build dwelling.

**Matters for Information**

9. Planning Appeals, Public Inquiries and Hearings 91 - 92

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

10. Urgent Items

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

**Matters for consideration in Private**

11. Exclusion of Press and Public 93 - 94

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

**PART 2 - PRIVATE**

12. Urgent Items

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

## **MEMBERSHIP**

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

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

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

## **GUIDANCE ON HOW MEETINGS WILL BE CONDUCTED**

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

<https://www.youtube.com/channel/UCPp-IJISNgoF-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@tmbc.gov.uk](mailto:committee.services@tmbc.gov.uk) in the first instance.

### **Attendance:**

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

- Members of the public addressing an Area Planning Committee should attend in person. However, arrangements to participate online can be considered in certain circumstances. Please contact [committee.services@tmhc.gov.uk](mailto: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.

This page is intentionally left blank



## **TONBRIDGE AND MALLING BOROUGH COUNCIL**

### **AREA 2 PLANNING COMMITTEE**

**Wednesday, 25th June, 2025**

**Present:** Cllr W E Palmer (Chair), Cllr C Brown (Vice-Chair), Cllr B Banks, Cllr R P Betts, Cllr M A Coffin, Cllr Mrs T Dean, Cllr J R S Lark, Cllr R V Roud, Cllr K B Tanner, Cllr Mrs M Tatton and Cllr M Taylor.

Apologies for absence were received from Councillors M D Boughton, P Boxall and S A Hudson.

### **PART 1 - PUBLIC**

#### **AP2 25/31 DECLARATIONS OF INTEREST**

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

#### **AP2 25/32 MINUTES**

**RESOLVED:** That the Minutes of the meeting of the Area 2 Planning Committee held on 28 May 2025 be approved as a correct record and signed by the Chairman.

#### **AP2 25/33 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.

### **MATTERS FOR DECISION UNDER DELEGATED POWERS (IN ACCORDANCE WITH PART 3 OF THE CONSTITUTION)**

#### **AP2 25/34 TM/25/00296/PA - GRIMBLES, LONG MILL LANE, CROUCH BOROUGH GREEN, SEVENOAKS**

Section 73 application for variation of condition 2 (plans list) to allow various amendments to the approved plans under reference TM/23/03070 which granted permission for the demolition of the existing dwelling and the erection of two detached dwellings with associated works.

Due regard was given to the determining issues and conditions as detailed in the report of the Director of Planning, Housing and Environmental Health. During discussion, concern was raised in regard to the overdevelopment of the site.

**RESOLVED:** That the application be APPROVED in accordance with the submitted details, conditions, reasons and informatives set out in the report of the Director of Planning, Housing and Environmental Health.

[Speaker: Mr A Wells, agent on behalf of the applicant].

#### **AP2 25/35 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 25/36 EXCLUSION OF PRESS AND PUBLIC**

There were no items considered in private.

The meeting ended at 7.46 pm

## **GLOSSARY of Abbreviations used in reports to Area Planning Committees**

### **A**

AAP	Area of Archaeological Potential
AGA	Prior Approval: Agriculture (application suffix)
AGN	Prior Notification: Agriculture (application suffix)
AODN	Above Ordnance Datum, Newlyn
AONB	Area of Outstanding Natural Beauty
APC1	Area 1 Planning Committee
APC2	Area 2 Planning Committee
APC3	Area 3 Planning Committee
AT	Advertisement consent (application suffix)

### **B**

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

### **C**

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

## **D**

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

## **E**

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

**F**

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

**G**

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

**H**

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

**I**

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

**K**

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

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

## **L**

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

## **M**

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

MWLP Minerals & Waste Local Plan

## **N**

NE Natural England

NMA Non Material Amendment (application suffix)

NPPF National Planning Policy Framework

## **O**

OA Outline Application (application suffix)

OAEA Outline Application with Environment Impact Assessment (application suffix)

OAX Outline Application: Extension of Time

OB106D Details pursuant to S106 obligation (application suffix)

OB106M Modify S106 obligation by agreement (application suffix)

OB106V Vary S106 obligation (application suffix)

OB106X Discharge S106 obligation (application suffix)

## **P**

PC Parish Council

PD Permitted Development

PD4D Permitted development - change of use flexible 2 year

PDL Previously Developed Land

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

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

PDV18 Permitted development - miscellaneous development (application suffix)

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

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

PLVLR	Permitted development - larger residential extension (application suffix)
PDVOR	Permitted development - office to residential (application suffix)
PDVPRO	Permitted development - pub to retail and/or office (application suffix)
PDVSDR	Permitted development storage/distribution to residential (application suffix)
PDVSFR	Permitted development (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)

This page is intentionally left blank

**Ryarsh**  
Birling Leybourne and  
Ryarsh

**6 AUGUST 2025**

**TM/25/00501/PA**

**Location:** Former Ryarsh Place Farm, Birling Road, Ryarsh, West Malling

**Proposal:** Outline Application: all matters reserved except for access, layout and scale for the demolition of an existing range of modern agricultural buildings and the redevelopment of site with five dwellings (Two single storey and three two storey) together with associated car ports, hardstandings for car parking and turning, landscaping works and the conversion of an existing former stable building into an ancillary domestic outbuilding works.

**Go to:** [Recommendation](#)

---

## **1. Description of Proposal:**

- 1.1 This application seeks outline planning permission with all matters reserved, except access, layout and scale, for the demolition of the existing agricultural buildings and the redevelopment of site with five dwellings, together with associated car ports, hardstanding for car parking and turning, landscaping works and the conversion of an existing former stable building into an ancillary domestic outbuilding.
- 1.2 In regard to Access, this would utilise the existing access taken from Birling Road which formally served the agricultural use/buildings on the site.
- 1.3 The layout comprises five dwellings in a linear form, fronting the playing field / outside space of Ryarsh Primary School. Each dwelling would be provided with two parking spaces either to the side of the proposed dwellings or to the rear.
- 1.4 The application also seeks to convert the existing former stable building into an ancillary domestic outbuilding.
- 1.5 A street scene (drawing no. P.08Rev C) has been provided illustrating the type of dwellings that could be envisaged for the site. Plots 1 and 2 are illustrated as bungalows, plots 3, 4 and 5 as two storey dwellings.

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

- 2.1 This application is referred to committee by Councillor Bill Banks, due to the previous refusal on the site and on the grounds of overlooking of the playing field and the outside classroom adjacent to the boundary.

### **3. The Site:**

- 3.1 The application site (0.325 hectares in total) is located on the south side of Birling Road outside of the defined settlement boundary of Ryarsh within the Metropolitan Green Belt and open Countryside. The area as a whole is within the Kent Downs Area of National Landscapes. Immediately to the west, is Ryarsh Village Conservation Area and a small section of the site is within this designation.
- 3.2 The site sits between residential dwellings to the north, south and west as well as some farm buildings to the south and Ryarsh Primary School to the east.
- 3.3 Historically the site was part of the large farmyard known as Ryarsh Place Farm currently it accommodates two large buildings. One open sided barn constructed from corrugated fibrous cement sheeting currently used for agricultural storage and a brick-built building partly open sided comprising storage and stables.
- 3.4 There are no significant trees or shrubs within the site itself. There are some mature trees within the school playing fields to the east and the grounds of neighbouring property to the north.
- 3.5 The site is also within flood zone 2 and 3. The woodland to the west and north are identified in Priority Habitat Inventory for deciduous woodland and within the National Forest Inventory Broadleaved. The area of trees adjacent to the southwest corner of the site is subject to a group tree protection order (78/00003/TPO). Public footpath MT22 runs parallel and adjacent to the northeast boundary of the site.

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

- 4.1 Outline planning permission (reference TM/23/03202/OAMIN) with all matters reserved (except for access, layout and scale) for the demolition of the existing modern agricultural buildings and the redevelopment of site comprising six dwellings with garaging, car parking and turning areas, together with the conversion of the existing stable building into an ancillary domestic outbuilding and landscaping works was refused (7 June 2024) for the following reasons:
  - 1. The proposed development by reason of its scale and orientation of the proposed dwellings would result in an unacceptable level of overlooking to the neighbouring properties. In particular a number of first floor windows would create unacceptable overlooking and this is particularly the case for plot 1, which would also be overbearing when viewed from the outside classroom space of the adjoining primary school this is contrary to policy CP24 Tonbridge and Malling Borough Core Strategy 2007 and Paragraph 135(f) of the National Planning Policy Framework (2023).
  - 2. The proposed development by reason of its layout and plot sizes would create a overly cramped form of development which is unsympathetic to the character and pattern of development as such would be contrary to policy CP24 Tonbridge and Malling

Borough Core Strategy 2007 and Paragraph 135(f) of the National Planning Policy Framework (2023).

3. The parking provision proposed adjacent to plot 6 by reason of its location, layout and quantity would result in unacceptable levels of noise and disturbance which would detrimentally impact the amenities of future occupiers of that dwellings to plot 6. Contrary to policy CP24 Tonbridge and Malling Borough Core Strategy 2007 and Paragraph 135(f) of the National Planning Policy Framework (2023).

4.2 The refused application is currently at appeal.

4.3 This application seeks to address the reasons for refusal. The quantum of development has been reduced, thus creating a more spacious layout. Plots 1 and 2 would be single storey and the location of the parking provision adjacent to the previously plot 6 has been removed.

4.4 Since the application was refused the NPPF has been updated (December 2024).

## **5. Consultees:**

### **5.1 Ryarsh Parish Council:**

The Parish Council objected to the previous application on this site, 23/03202, having heard representations from residents and Ryarsh Primary School.

The Parish Council has had the opportunity to consider this new application at their meeting on Monday 14th April 2025, and strongly objects.

The Parish Council believes that the objections contained in its representations to you dated 14th December 2023 all still apply to this new application, and ask that the points raised in that document are taken into account again (copy appended below).

The new application reduces the overall number of properties from 6 to 5, and 2 of those properties are now to be bungalows.

This application represents a signification increase in build form and activity on the site

- Ryarsh Primary School is unique, in that the youngest children in the school have a classroom which leads out to an open area which forms an outdoor learning space. This outdoor learning space will be negatively impacted by the access road which runs next to it and the properties which will overlook it. A site visit will show how close the outdoor learning area is to the access road and proposed properties.
- We understand that students' get changed in the classrooms for PE in Reception, Year 1 & Year 2. They will be overlooked in the classrooms, and their privacy will be breached.

- The School benefits from a Forest School which is used for educational purposes for the children. The outdoor classroom and the Forest School run along almost the entire length of the proposed site for the houses. There are issues with disruption, noise and safeguarding due to the access road and the proposed houses and bungalows.
- The proposed buildings are overbearing on Forest School, reducing natural light and causing privacy issues
- The noise and disruption during the build to the youngest children in the school during education hours, and to the whole school during break time will be significant. Increased traffic following the construction when the build is completed will also negatively affect the school.
- There are pollution concerns from the build, such as air or water pollution. The students will be breathing in the dust while the construction is going ahead, which will not be good for their health, particularly for those with respiratory illnesses.
- As well as their education being negatively impacted, the importance to children's mental health to learn and play outside cannot be overstated and must be protected
- The Parish Council supports the concerns and objections raised by Ryarsh Primary School, who want to ensure the safety and wellbeing of the children in their care, as well as providing the best education possible for all their students
- Councillors remain very concerned about the asbestos removal on the site
- Councillors are concerned about the proposed boundary fencing, and whether this will safeguard and protect the children learning and playing outside
- The Parish Council is concerned that this site is in Flood Zone 3. The School and neighbouring properties have suffered from flooding in the past and can provide evidence of this. It is noted from the documents submitted by the applicant that the site passes the exception test. The Parish Council would like to ask if it has passed the sequential test? Due to the risk of flooding, housing should be directed to the lowest areas at risk of flooding in Zone 1.
- Councillors ask if a Phase 1 contamination report has been provided for the former agricultural buildings
- The access road, driveway, junction with Birling Road and proximity to the School cannot be changed and pose a high risk to children. The access road is hardly used at the moment, but traffic is already an issue at School drop off and collection time. Adding in large vehicles during the build will cause chaos. There should be no movement of vehicles involved in the build for an hour around school

drop off and collection times as it will be too hazardous (exact timings to avoid can be confirmed by the school)

- Councillors would strongly recommend that Committee Members visit the site at school drop off and collection time to see the traffic problems that are already present. The increase in danger will be obvious from adding in extra vehicles movements if the houses are built, with those vehicles (from occupants, delivery drivers etc) travelling across the footpath used by the children running to and from the school, onto a blocked road, with no means of reversing or moving away.
- There is a negative impact on the character and appearance of the area, on neighbouring properties and on their privacy. The proposed buildings are overbearing on neighbours due to the proximity.

## 5.2 Birling Parish Council:

Due to the significant number of pupils attending Ryarsh Primary School from Birling Parish, the parish council requests that, should permission be granted, a condition is imposed to ensure the proposed dwellings remain single storey. Specifically, the council asks that any future upward extensions or additions of extra storeys be prohibited. This is essential to maintain the scale and character of the development in keeping with the surrounding rural setting. Increasing the height or massing of the buildings in the future would risk overlooking and loss of privacy. By maintaining the dwellings as single storey, the privacy and amenity of neighbouring homes and the school environment will be protected, while also preserving the visual openness of the area

## 5.3 KCC Ecological Advice Service:

First response received 12 June 2025 – Insufficient information

Additional bat surveys and updated bat report to include all necessary avoidance, mitigation and compensation measures (hibernating bats)

Second response received 22 July 2025 - The site has been confirmed as a day roost for common pipistrelle and brown long-eared bat, and as a hibernation roost for common pipistrelle. The preliminary ecological appraisal (PJC, Dec 24) details mitigation measures for both roost types. We are satisfied that sufficient information has been provided to determine the planning application however further data will be required to inform the EPS licence.

Additional ecological constraints have been identified as the potential presence of nesting birds, reptiles, great crested newt (GCN), dormice and barn owl, though due to the limited suitability of habitats for these species further survey is considered to be disproportionate and may instead be avoided through the implementation of precautionary working methods. A pre-commencement survey for barn owl will be required.

A BNG Assessment (PJC, Feb 25) has been undertaken, which has demonstrated that through the creation of vegetated garden habitats, a net gain of +94.14% is possible onsite, in addition to hedgerow net gains of +151.80%.

#### BARN OWL

- 5.4 Information in regards to barn owl has been redacted within the submitted PEA, however we assume that they are absent from the site at present. Due to the suitability of habitats onsite, we recommend that a pre-commencement barn owl survey is undertaken by a licensed and suitably qualified ecologist, to search for evidence of barn owl presence. We note that this should be completed regardless of the time of year, as barn owl have been recorded breeding from January through to December.

Suggested condition:

Within six weeks prior to the commencement of development (including demolition) a pre commencement barn owl survey shall be carried out by a licensed surveyor. If a barn owl, or evidence of barn owl is recorded on site, a barn owl mitigation strategy shall be submitted to and approved in writing by the Local Planning Authority.

#### ROOSTING BATS

The site has been confirmed as a day roost for common pipistrelle and brown long-eared bat, and as a hibernation roost for common pipistrelle. The preliminary ecological appraisal (PJC, Dec 24) details mitigation measures for both roost types. We are satisfied that sufficient information has been provided to determine the planning application however further data will be required to inform the EPS licence.

The applicant has provided a response to our previous concerns in regard to hibernating bats and confirmed that the licence application will cover the loss of hibernation root sites. We would have preferred that full hibernation and monitoring surveys were undertaken throughout the winter to establish the nature of the use of the site by roosting bats (i.e. transitional or permanent hibernation roost) however have accepted that due to the types of building the proposed mitigation is unlikely to change. However, we advise that the surveys are undertaken over winter to inform the detailed mitigation strategy required as part of the EPS licence.

Due to the age of the survey data we highlight that updated emergence surveys will be required to inform the EPS licence.

Suggested condition:

A mitigation strategy based on updated surveys will be required prior to commencement, this will inform the EPSL application. All mitigation for bats shall be carried out in accordance with the details contained in the new mitigation strategy, unless additional/alternative measures are required by Natural England. A granted



Natural England bat mitigation licence must be in place prior to carrying out any works that could affect the bat roost(s) on-site. Should Natural England require less mitigation than that detailed within the report, then all remaining measures shall be included as enhancements under the National Planning Policy Framework 2024. Bat mitigation, and any enhancements, shall be implemented as above and retained thereafter.

Reason: to maintain the favourable conservation status of bats impacted by the development in accordance with Regulation 55 of The Conservation of Habitats and Species Regulations 2017.

#### PRECAUTIONARY WORKING METHOD STATEMENT

Habitats onsite consist primarily of hardstanding, however there may be potential refugia opportunities for species such as GCN and reptiles, and there is some potential for dormice within retained hedgerows. Nesting birds may be present in both vegetation and buildings, potential impacts to barn owl have been considered separately. Bats have been confirmed within the onsite buildings and one tree has been identified as PRF-M. There is also potential for hedgehog and badger to move across the site.

Suggested condition:

No development shall take place (including any ground works, site or vegetation clearance) until a Precautionary Working Method Statement has been submitted to and approved in writing by the local planning authority. This shall include the following and be based on the submitted Preliminary Ecological Appraisal (PJC, Dec 24) and up-to-date ecological survey information, as advised by a suitably qualified ecologist:

- Purpose and objectives for the proposed works;
- The identification of biodiversity protection zones and the use of protective fences, exclusion barriers and warning signs;
- Detailed design(s) and/or working method(s) necessary to achieve stated objectives;
- Extent and location of proposed works (including receptor areas(s) in case animals are encountered during development) shown on appropriate scale maps and plans for all relevant species and habitats;
- Reference to the relevant protected species licences (e.g., bats) to be obtained in advance of site clearance/construction and any relevant mitigation measures required;
- Reference to any Environment Agency permits required and any relevant mitigation measures required [if required]
- Reference to or inclusion of a detailed arboricultural method statement to protect retained trees, including all trees with potential bat roost features
- Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;

- Persons responsible for implementing the works, including times during construction when specialist ecologists need to be present on site to undertake / oversee works;
- Initial aftercare and reference to a long-term maintenance plan (where relevant);
- Disposal of any wastes for implementing work.

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

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

## ARTIFICIAL LIGHTING

Lighting in the vicinity of a bat roost or along commuting / foraging routes could constitute an offence both to a population and to individuals. Artificial lighting has been shown to be particularly harmful to bats along river corridors, near woodland edges and near hedgerows. Local authorities have a duty to ensure impacts upon legally protected species are avoided and impacts upon bats are a material consideration in any planning permission under the Natural Environment and Rural Communities (NERC) Act 2006 and through the NPPF 2024.

Therefore, to mitigate against potential adverse effects on biodiversity, the Bat Conservation Trust/Institute of Lighting Professional's 'Guidance Note 8 Bats and Artificial Lighting at Night' (or subsequent updates) should be consulted in the lighting design of the development.

We advise that the incorporation of sensitive lighting design for biodiversity is submitted to the local planning authority and secured via an attached condition with any planning permission.

### Suggested Condition:

Prior to occupation, a lighting design plan for biodiversity shall be submitted to, and approved in writing by, the local planning authority. The plan shall show the type and locations of external lighting, as well as the expected light spill in lux levels, to demonstrate that areas to be lit shall not adversely impact biodiversity. All external lighting shall be installed in accordance with the specifications and locations set out in the plan and shall be maintained thereafter.

Reason: To limit the impact of light pollution from artificial light in accordance with the NPPF 2024, paragraph 198(c).

## BIODIVERSITY NET GAIN

A BNG assessment was conducted (PJC, Jan 25), which determined that a net gain of 0.23 units (+94.14%) is achievable onsite, due to the creation of new gardens. The

site currently comprises developed land, sealed surface and introduced shrub. Two trees are present which are due to be retained.

None of the proposed gains in relation to area habitats are considered to be significant, and none are able to be secured as they consist of hardstanding (biodiversity value of zero), or residential gardens (gains within residential curtilage cannot be secured). There will be a net gain of +0.89 hedgerow units (+151.80%), through the enhancement of existing hedgerows. These gains are not significant and can be secured through the implementation of a Biodiversity Enhancement Plan (BEP).

## BIODIVERSITY ENHANCEMENT PLAN

A Biodiversity Enhancement Plan will be prepared which will include habitat creation/enhancement measures as outlined within the BNG assessment (PJC, Jan 25), in addition to the enhancement measures outlined within the bat mitigation strategy (PEA, PJC Jan 25), and additional opportunities for increasing the value of the site for biodiversity.

Suggested condition:

Prior to first occupation of the development hereby approved, a Biodiversity Enhancement Plan shall be submitted to and approved in writing by the local planning authority. The plan shall include details of the following:

- Habitat creation measures, including full details of hedgerow enhancements and any native tree, shrub or grassland creation
- A full planting schedule utilising primarily native species;
- Full elevations plans detailing the model and location of integral swift boxes at a 1:1 ratio for all new buildings (north/east facing, 4m from the ground and with unobstructed access);
- Details of externally-mounted bat and bird boxes which are to be of durable construction and suitably located;
- Details of new log pile creation
- Details of new bee brick creation
- Locations of 13x13cm holes in close boarded fencing provided for hedgehogs
- Rolling, long-term maintenance measures covering up to a 30-year period; and
- Details of responsible persons.

Photographs of the log pile, hedgerow holes, bee bricks and all new bird and bat boxes in their installed locations plus context photographs are to be submitted to and approved in writing by the local planning authority prior to first occupation. The wildlife boxes are to be retained in that manner thereafter.

Reason: To protect and enhance biodiversity in accordance with paragraphs 187, 192 and 193 of the National Planning Policy Framework (December 2024), and in

order for the Council to comply with Part 3 of the Natural Environment and Rural Communities Act 2006.

5.4 The Environment Agency: No objection subject to conditions.

In accordance with the National Planning Policy Framework (paragraph 162), development in flood risk areas should not be permitted if there are reasonably available alternative sites, appropriate for the proposed development, in areas with a lower risk of flooding. The sequential test establishes if this is the case.

Development is in a flood risk area if it is in Flood Zone 2 or 3, or it is within Flood Zone 1 and your strategic flood risk assessment shows it to be at future flood risk or at risk from other sources of flooding such as surface water or groundwater. The only developments exempt from the sequential test in flood risk areas are:

- Householder developments such as residential extensions, conservatories or loft conversions
- Small non-residential extensions with a footprint of less than 250sqm
- Changes of use (except changes of use to a caravan, camping or chalet site, or to a mobile home or park home site)
- Applications for development on sites allocated in the development plan through the sequential test, which are consistent with the use for which the site was allocated.

Avoiding flood risk through the sequential test is the most effective way of addressing flood risk because it places the least reliance on measures such as flood defences, flood warnings and property level resilience.

It is for you, as the local planning authority, to decide whether the sequential test has been satisfied, but the applicant should demonstrate to you, with evidence, what area of search has been used.

Based on the information provided in the FRA we are satisfied the proposed units will be high enough to minimise the risk of internal flooding and unlikely to result in increased flood risk elsewhere.

Condition suggested: The development shall be carried out in accordance with the submitted flood risk assessment (ref. 92595-Bridger-Ryarsh-v200, dated February 2025) has been prepared by UNDA Consulting Ltd) and the mitigation measures it details. These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason(s): To reduce the risk of flooding to the proposed development and future occupants.

We have screened the application and have no objection in relation to groundwater and contaminated land. However, it is recommended that the applicant reviews our groundwater position statements.

#### Drainage and infiltration

Only clean uncontaminated water should drain to the surface water system. Roof drainage shall drain directly to the surface water system (entering after the pollution prevention measures). Appropriate pollution control methods (such as trapped gullies and interceptors) should be used for drainage from access roads and car parking areas to prevent hydrocarbons from entering the surface water system. There should be no discharge into land impacted by contamination or land previously identified as being contaminated. There should be no discharge to made ground. There must be no direct discharge to groundwater, a controlled water.

#### Discharge of treated sewage effluent

If you are proposing a non-mains drainage solution then a form should be completed and submitted with any application. The discharge of domestic sewage may be subject to General Binding Rules (GBRs) under the Environmental Permitting (England & Wales) Regulations 2016, which provide a statutory baseline of good practice.

5.5 Waste Services: Standard advice

5.6 Housing Services (Private Sector): No comments received.

5.7 KCC Highway Services:

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:

Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction.

Provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction.

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

Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction.

Provision and permanent retention of the vehicle parking spaces and/or garages shown on the submitted plans prior to the use of the site commencing.

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>

Provision and permanent retention of the vehicle loading/unloading and turning facilities shown on the submitted plans prior to the use of the site commencing.

Provision and permanent retention of the cycle parking facilities shown on the submitted plans prior to the use of the site commencing.

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.

#### 5.8 KCC Heritage Conservation:

The site of proposed works is within the complex of an 18th century farm associated with Ryarsh Place. The 1st Ed OS map indicates barns and outbuildings on the application site and these may survive below the ground on the site. Although I am aware that the current buildings are new and would have caused some impact on historic remains, there may be remains associated with the use and occupation of the 19th century and earlier farm. In view of this archaeological potential I recommend the following condition is placed on any forthcoming consent:

##### Suggested Condition

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

#### 5.9 Leisure Services:

Open space should, in the first instance, be provided on the development site. Open space demand generated by the development (net, sq. m): 1316.12.

If provision on-site or off-site is not feasible, contributions should be sought to enhance relevant existing open spaces

Contributions sought for this development should total £25,411

Parks & Gardens – £6,978

Amenity Green Spaces – £1,272

Outdoor Sports Facilities – £12,802

Children's and Young People's Play Areas – £1,681

Natural Green Space – £2,678

This information is based on the limited information provided within the Outline planning application, should the number of properties and bedrooms alter this will need re-calculating.

#### 5.10 Interested Parties:

- 5.11 Whilst comments have been summarised for the purpose of this report, all comments have been reviewed in full. Moreover, whilst not every comment has been referred to individually in the respective assessments for the application, all comments have been considered.

#### Objections/concerns

Our number one priority as a school is to safeguard our children. We believe that the proposed site makes it impossible for us to guarantee the safety of our children. Firstly, the site is extremely close to the school grounds, specifically the area where the children participate in forest school sessions. We are extremely concerned that, despite changes from the 2023 application, houses built will still easily be able to see into the school or will easily be able to access our school due to the lower height of the fence currently in place to stop wildlife from entering our grounds.

Nothing has been done to reduce the visual intrusion to plots 3, 4 and 5.

There are serious concerns around the issue of road safety. The entry point to the site is completely inappropriate as it will compromise the safety of the children when arriving or leaving school. It could also lead to further traffic issues during certain times of the day, also compromising the safety of the children of our school.

The existing access to and from Birling Road is currently used by farm vehicles and immediately adjacent to Ryarsh Primary School. During the school day Birling Road has a lot of on-street parking, which, especially at drop off and pick up times is a problem for pedestrians and all road users. If the proposed development is allowed the existing situation will be made worse, significantly increasing danger for the school children, pedestrians and through traffic.

There is not a clear line of sight exiting the lane when cars are parked on the road which endangers road users and pedestrians.

The access and track is not wide enough to allow two cars to pass side by side, which may lead to vehicles reversing onto the road and across a pedestrian access to the school, potentially causing a danger to pedestrians and road users.

There could also be public health concerns during the demolition and subsequently removal of the existing buildings, being so close to existing properties, but especially the school.

The proposed development will overlook the primary school, giving rise to safeguarding concerns.

The impact of the construction stage on children's learning will be significant, and ultimately detrimental to children's development. The amount of visual and audio distractions will present significant barriers to children's learning. We also have a number of children with additional needs linked to sensory processing and a construction project so close to the school will have a negative impact on these children.

Concerned about the impact that this construction will have on the quality of air.

The unacceptable and overbearing intrusion on the neighbouring properties on the other side of the development, including Little Ryarsh.

The listed barn is much closer than the school to the proposed development and which actually intrudes into Little Ryarsh's Garden. Two windows in the barn look directly over the garden.

### Support

We are writing in full support of this new application and the desperately needed new homes it will deliver.

The school has had a working farm and dwellings as neighbours for years. The farm yard has also been an active builders yard for over a decade. Are the school suggesting they really do care about safeguarding and this privacy issue has never struck them as an issue prior to now?

## **6. Determining Issues:**



### Policy Guidance

- 6.1 Under the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the Local Planning Authority is required to determine planning applications and other similar submissions in accordance with the Development Plan in force unless material considerations indicate otherwise.
- 6.2 The Development Plan currently comprises the Tonbridge and Malling Local Development Framework Core Strategy (TMBCS) adopted in September 2007, the saved policies of the Tonbridge and Malling Borough Local Plan 1998 (TMBLP), Development Land Allocations DPD (DLA DPD) adopted in April 2008 and the Managing Development and the Environment DPD (MDE DPD) adopted April 2010.
- 6.3 The National Planning Policy Framework (“NPPF Dec 2024”) and the associated National Planning Practice Guidance (“NPPG”) are also important material considerations together with Kent Design Guide and Kent County Council’s Parking Standards (January 2025).

### Principle of Development

- 6.4 The NPPF seeks to maximise opportunities for the supply of housing in appropriate locations which can contribute to the sustainability and vitality of existing communities, both urban and rural. Paragraph 78 of the NPPF states, *“Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old”*.
- 6.5 It is not disputed that the Council cannot currently demonstrate an up-to-date five-year supply of housing when measured against its objectively assessed need (OAN). The Council’s latest published position indicates a 2.89 year supply of housing.
- 6.6 As a consequence, the presumption in favour of sustainable development as set out at paragraph 11 of the NPPF (2024) must be considered when assessing a development for house(s). For decision taking this means:
  - 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 strong 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, having particular regard to key policies for directing development to

sustainable locations, making effective use of land, securing well designed places and providing affordable homes, individually or in combination.

- 6.7 In relation to Paragraph 11d (i) Footnote 7 (NPPF) provides a list of those policies that relate to protected areas and assets of particular importance, which includes the Green Belt, Heritage Assets, National Landscapes and areas at risk of flooding. Therefore, it must first be established whether the policies in this Framework that protect areas or assets of particular importance provide a 'strong' reason for refusing the development.

#### Assessment on Green Belt

- 6.8 The site lies within the Metropolitan Green Belt, wherein Policy CP3 of the Core Strategy states that the Council will apply National Green Belt Policy.
- 6.9 Paragraph 152 (NPPF) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 153 adds, when considering any planning application, Local Planning Authorities (LPA) should ensure that substantial weight is given to any harm to the Green Belt. 'Very Special Circumstances' (VSC) will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 6.10 Paragraph 154 (NPPF) states, LPA's should regard the construction of new buildings as inappropriate in the Green Belt. Exemptions to this include:
- e) Limited infilling in villages
- 6.11 Paragraph 154(e) does not clarify what constitutes a village, and neither does it define "limited infilling". The site lies outside of the settlement confines according to the 'Proposals Map' of the Development Plan. Nonetheless, it is acknowledged that in *Wood v Secretary of State for Communities and Local Government [2014]* the Court of Appeal held that whether a site lies within a village is a matter of planning judgement and not solely determinative on whether it falls within a defined settlement boundary, although this can be a material consideration. The correct test is therefore to determine if the site can reasonably be considered as falling within the confines of a village, in consideration of the physical context of the site, and whether it would constitute limited infilling, as a matter of planning judgement.
- 6.12 The site is outside the settlement boundary to the east of the village centre of Ryarsh. The site sits between a group of detached residential properties to the west and north, some farm buildings and a dwelling to the south and Ryarsh Primary School to the east. The site is accessed directly from Birling Road via an established driveway.
- 6.13 In a recent appeal decision (APP/H2265/W/22/3313558 – Heronshaw Oldbury Lane Ightham) whilst dismissed, the Inspector considered the issue of 'limited infilling' in a

village. In that case the Inspector gave 'weight' to the location of the primary school, which was directly opposite the appeal site, the Inspector considered that this 'indicated the appeal site was also functionally related to the village'. In this case the site is not only adjacent to the primary school, but also in close proximity to the village hall.

- 6.14 Therefore, to conclude on this matter, Officers are of the opinion that the proposal would constitute limited infilling within a village set out in paragraph 154 (e) NPPF, as such would be 'appropriate' development in the Green Belt.
- 6.15 For clarification as appropriate development in the Green Belt there is no requirement to assess the site against new Green Belt Policy in the NPPF.
- 6.16 Core Strategy Policy CP14 relates to development within the countryside. It states in the countryside development will be restricted to, but not limited, to a) extensions to existing settlements in accordance with Policies CP11 or CP12, b) the one-for-one replacement, or appropriate extension, of an existing dwelling, or conversion of an existing building for residential use. The proposal does not fit within those categories listed in Core Strategy Policy CP14, however, this policy pre dates the NPPF and is not considered to be consistent with the language of the NPPF and therefore diminished weight is afforded to the policy in this case.
- 6.17 Therefore, the principle of development is acceptable as limited infilling in a village and no further assessment in Green Belt terms is required. As such the adverse impacts to the Green Belt do not provide a 'strong' reason for refusing the development. Accordingly, the 'tilted balance' of Paragraph 11d(i) would not be displaced on Green Belt grounds.

#### Assessment on National Landscapes

- 6.18 In November 2023 all designated Areas of Outstanding Natural Beauty in England and Wales became 'National Landscapes' Thus the Kent Downs AONB is now the Kent Downs National Landscape. Its legal designation and policy status remain the same.
- 6.19 The site and the wider area are within the Kent Downs National Landscapes (NL's), which has one of the highest statuses of protection in relation to landscape and scenic beauty. The statutory purpose of NL's is to conserve and enhance the natural beauty of the area. The designation means that the Borough Council must have regard to the purpose of the designation in 'exercising or performing any functions in relation to, or so as to affect, land.'
- 6.20 Policy CP7 of the TMBCS seeks to prevent development in NL's which would be detrimental to the natural beauty and quiet enjoyment of the area, including their landscape, wildlife and geological interest. This generally accords with paragraph 189 of the NPPF, which states that great weight should be given to conserving and enhancing the landscape and scenic beauty in NL's which (along with National Parks

and The Broads) have the highest status of protection in relation to these issues. The NPPF also states that the scale and extent of development within these designated areas should be 'limited'. This is supported by the Kent AONB Management Plan 2021-2026

- 6.21 The proposal would be limited and small scale, in compliance with paragraph 189 NPPF and would not introduce buildings of a significant scale onto the site having regard for the scale of the existing buildings. The proposed dwellings would be viewed in the context of the surrounding development as such the visual impact on the character and appearance on the Kent Downs NL would be very limited.
- 6.22 The impact of the proposal on NL's was obviously considered when assessing the previous scheme (for six dwelling) where it was noted, that *"the proposed changes to the site would deliver aesthetic improvements benefitting the adjacent designated Conservation Area and the Kent Downs Area of Outstanding Natural Beauty/National Landscape"*.
- 6.23 There have been no changes to National or Local Plan policies to warrant coming to a different conclusion. Therefore, the adverse impact on the NL's definition do not provide a 'strong' reason for refusing the development. Accordingly, the 'tilted balance' of Paragraph 11d(i) would not be displaced on NL grounds.

#### Heritage Assets

- 6.24 A small section of the site also lies within the Ryarsh Conservation Area. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. In addition, located immediately to the west of the site are two structures that appear to have a historical association with Ryarsh Place to the west of the site. These structures are a former stable building and a substantial boundary wall that is part of an historic walled garden. Both items are considered to be 'curtilage listed' by virtue of their age and historic association with 'Ryarsh Place'. Both structures are also located within the Ryarsh Conservation Area that encroaches onto the western edge of the application site.
- 6.25 Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires officers to pay special regard to "the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses". The special interest and significance of the listed buildings in the vicinity of the application site is informed by their architectural detailing, particularly externally, but also by their history.
- 6.26 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

- 6.27 Policy CP24 TMBCS, requires that all development must be well designed and of a high quality in terms of detailing and use of appropriate materials, and must through its scale, layout, siting, character and appearance be designed to respect the site and its surroundings.
- 6.28 Policy SQ1 MDE DPD states all new development should protect, conserve and, where possible, enhance the character and local distinctiveness of the area including its historical and architectural interest and prevailing level of tranquillity: and the distinctive setting of, and relationship between, the pattern of settlement, roads and the landscape, urban form and important views.
- 6.29 Additionally, Paragraph 207 (NPPF), states *“In determining applications LPA 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 proportional to the asset’s 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”*.
- 6.30 Paragraph 212 of the NPPF sets out 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”*.
- 6.31 Paragraph 215 of the NPPF states *“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.”*
- 6.32 The application is accompanied by a heritage statement, which sets out the significance of the heritage assets affected by the proposal.
- 6.33 It is self-evident that the proposed development scheme would give rise to a change to the appearance of the application site and to the setting of the neighbouring Listed Building and the visual amenities of the adjacent Conservation Area, given the demolition of the extensive range of large modern barn buildings that would take place and their replacement with dwellinghouses.
- 6.34 However, the proposed changes are considered to be positive as they remove poor quality buildings within a predominantly residential area. The removal of the existing buildings would also re-expose a large section of historic walling and the former stables building which are currently both obscured from views by the barns.
- 6.35 There would be no structural changes to the former stable building per se, the building works are considered to be limited and the conversion of the building to form

an ancillary domestic outbuilding would not compromise the setting of the curtilage listed structure. Consequently, it is not considered that the re use of the building would cause any harm to the adjacent listed building or the adjacent conservation area.

- 6.36 The impact of the proposal on heritage assets was considered when assessing the previous scheme (for six dwelling). There have been no changes to National or Local Plan policies to warrant coming to a different conclusion. Therefore, the adverse impact to heritage assets does not provide a 'strong' reason for refusing the development. Accordingly, the 'tilted balance' of Paragraph 11d(i) would not be displaced on Heritage grounds.

#### Flood Risk

- 6.37 The proposed development sits within Flood Zone 2 & 3. Applications within Flood Zone 2 and 3 can require a Flood Risk Assessment and consultation with the Environmental Agency.
- 6.38 Policy CP10 Core Strategy states "within the floodplain development should first seek to make use of areas at no or low risk to flooding before areas at higher risk, where this is possible and compatible with other policies aimed at achieving a sustainable pattern of development".
- 6.39 Paragraph 173 notes that a sequential risk based approach should also be taken to individual applications in areas known to be at risk now or in the future from any form of flooding. Paragraph 178 (NPPF) confirms that both elements of the exception test should be satisfied for development to be allocated or permitted.
- 6.40 The application is accompanied by a Flood Risk Assessment by UNDA Consulting Ltd (ref. 92595-Bridger-Ryarrsh-v200, dated February 2025)
- 6.41 The Environmental Agency has been consulted on the application and raise no objection to the proposal subject to conditions. Moreover, no objection was raised on the previous application in terms of flood risk and there has been no change in site circumstances or policy to warrant coming to a different conclusion.
- 6.42 The Environment Agency note that the proposed Finished Floor levels will be sufficiently high enough above the design flood level to minimise the risk of internal flooding to the proposed dwellings. We also confirm the proposed development is unlikely to increase flood risk elsewhere.
- 6.43 The previous application was also assessed in relation to the required Sequential Test and again as stated above there has been no change in site circumstances or policy to warrant coming to a different conclusion on this element.
- 6.44 To conclude, the impact of the proposal on flood risk was considered when assessing the previous scheme (for six dwelling). There have been no changes to

National or Local Plan policies to warrant coming to a different conclusion. Therefore, the adverse impact to flood risk does not provide a 'strong' reason for refusing the development. Accordingly, the 'tilted balance' of Paragraph 11d(i) would not be displaced on flood risk.

Conclusion on Paragraph 11 (d) (i)

- 6.45 After carrying out the 11(d)(i) exercise and subsequently concluding that there are no "restrictive policies" in the NPPF which provide a 'strong' reason for refusal, the application must therefore be considered against paragraph 11(d)(ii) of the NPPF and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, which are discussed below.

Assessment of unreserved matters

- 6.46 Whilst the application has been submitted in outline form, it includes full details of the means of Access, the Layout in terms of positions of the dwellings and the intended Scale of the development, with only details of the precise Appearance of the dwellings and the Landscaping of the site reserved for future consideration. However, indicative illustrations of the type/style of dwellings that is envisaged for the site have been submitted to assist in the understanding of the proposal.

*Access and Parking*

- 6.47 Paragraph 115 of the NPPF states that, in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that, inter alia, safe and suitable access to the site can be achieved for all users.
- 6.48 Paragraph 116 adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 6.49 Policy SQ8 of the Managing Development and the Environment DPD states that development proposals should comply with the adopted parking standards and development proposals will only be permitted where they would not significantly harm highway safety.
- 6.50 Officers acknowledge objections have been received from local residents raising concerns in regard to the access, stating that the access is via a narrow single lane track without clear line of sight, and moreover that the scheme will generate additional traffic and could due to its proximity with the school lead to further traffic issues during certain times of the day, also compromising the safety of the children.
- 6.51 KCC as highway authority has been consulted on the application and raise no objection or make any specific representations on the proposal. It is noted that on the previous application KCC highways noted that the site is currently used for

agriculture and commercial storage purposes and considered that these uses will generate vehicle movements, that include large vehicles such as Heavy Goods Vehicles (HGVs). In view of the restricted width of the access for large vehicles to manoeuvre and pass each other, KCC Highways was of the view that the reduction in HGV movements associated with the proposed residential development, will reduce the potential for hazardous conflicts to occur.

- 6.52 In addition, KCC Highways also considered on the previous application that the proposed residential development will generate pedestrian activity, and it was noted that the application had insufficient land available to provide a dedicated footway along the access road. As such it was suggested by KCC Highways that it was therefore essential that the road is designed as a shared surface, to ensure it is suitable for all road users. The application is accompanied by a Proposed Site Access Road plan (Drawing No. P22109 001) which demonstrates vehicle/pedestrian passing spaces. This could be secured via a condition.
- 6.53 Therefore, in terms of impact on highway safety and the impact on vehicular movement onto the wider network, it is not considered that the proposal would result in any severe adverse highway impacts. Moreover, it is also important to note that no objection in relation to access or vehicular movement etc was raised on the previous application.
- 6.54 Turning to parking, the proposal would provide 8 parking spaces together with 4 carports. The application forms indicate that the mix would be 2 x 3 bed and 3 x 4 bed dwellings.
- 6.55 Kent County Council's Parking Standards (January 2025) requires for 'suburban' area, for 3 and 4 bed dwellings, 2 spaces per unit. Visitor parking for suburban area would be on street or 0.2 per unit. The proposal would provide 2 space per unit and there would be sufficient space within the site for visitor parking. KCC raise no objection in relation to parking. Electric vehicle charging would be secured via building regulations.
- 6.56 Accordingly, the development is not anticipated to cause an unacceptable impact upon highways safety and parking provision subject to conditions, as such the proposal would adhering to Policy SQ8 of the MDE DPD, the KCC Parking Standards (2025) Policy SQ8 of the MDE DPD and paragraphs 115 and 116 of the NPPF.
- 6.57 In relation to fire and rescue it is noted that the access to the proposed development is narrow and does not appear suitable for a fire appliance albeit that the vehicular swept path analysis (drawing no TRK01) does demonstrate that the access is suitable for two large vehicles to pass in places. As such, the emergency access requirements for the Fire and Rescue Service, under the Act, do not appear to have been demonstrated.
- 6.58 However, this is an existing access which already serves existing agricultural buildings and it is also considered that there is sufficient space within the site for a



vehicle to turn and exit the site in a forward gear. Therefore, no objection is raised *per se*. Moreover, it is noted that Kent Fire and Rescue Service do support domestic sprinkler systems when designed and installed in accordance BS 9251 which, will extend hose lay distances up to 90 metres. If this is not feasible that applicants will need to demonstrate that an emergency access is feasible.

- 6.59 Applicants should be aware that in the event of planning permission being granted the Fire and Rescue Service would require emergency access, as required under the Building Regulations 2010, to be established.
- 6.60 Fire Service access and facility provisions are a requirement under B5 of the Building Regulations 2010 and must be complied with to the satisfaction of the Building Control Authority. A full plans submission should be made to the relevant building control body who have a statutory obligation to consult with the Fire and Rescue Service.

#### *Layout*

- 6.61 Policy CP24 of the Tonbridge and Malling Borough Core Strategy requires that all development must be well designed and of a high quality in terms of detailing and use of appropriate materials, and must through its scale, layout, siting, character and appearance be designed to respect the site and its surroundings.
- 6.62 Policy SQ1 of the MDE DPD states all new development should protect, conserve and, where possible, enhance the character and local distinctiveness of the area including its historical and architectural interest and prevailing level of tranquillity; and the distinctive setting of, and relationship between, the pattern of settlement, roads and the landscape, urban form and important views
- 6.63 Policy SQ7 advises that development proposals must by way of their design/layout maximise opportunities for healthy living and provide access to open spaces. Policy SQ9 sets out that development will only be permitted whereby it can be demonstrated that the design/layout will be suitable in deterring crime. Healthy and safe communities are further emphasised at Chapter 8 of the NPPF.
- 6.64 Paragraph 135 NPPF sets out a number of ways in which planning policies and decisions should ensure that developments of high quality and contribute to the character and appearance of an area through its design, appearance and layout. Most relevant of these are that developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping and sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).
- 6.65 Drawing No. P.13 relates to the Layout of the development. This drawing proposes a linear form of development with the dwellings fronting an internal road layout and with

the main residential amenity areas proposed to the rear. As stated above parking provision would be either to the side of the dwelling it serves or to the rear.

- 6.66 The area is characterised by predominately semi-detached and detached dwellings interspersed with rows of terrace housing with dwellings fronting main and internal road layouts. Therefore, the linear layout of the dwellings is considered in keeping with the character and appearance of the area and no objection is raised to this element.
- 6.67 It is noted that the proposal would spread development to the north, thus introducing built form into an area where currently there is none. However, it is acknowledged that the site as a whole is heavily developed in terms of its coverage with large agricultural buildings and predominantly all hard surfaced. In this regard there would be a reduction in footprint as such the proposal, taken as a whole achieves an increase in openness and to the appearance of the area. Furthermore, the reduction in the quantum of development allows for a more spacious layout in general.
- 6.68 Concerns were raised on the previous scheme in relation to the lack of front garden areas, this has been addressed. Concern was also raised previously in relation to garden depths, with plots 2, 3 and 6 falling short of the recommended standard 10 metres. This has been addressed, and all dwellings now meet this recommended standard.
- 6.69 Concern was previously raised in relation to the parking layout and specifically in regard to the amenities of future occupiers for plot 6. This has been addressed by the reduction in the number of units and the relocation of the parking provision for the site.
- 6.70 Therefore, in terms of Layout the proposed development would not detract from, or be detrimental to, the character of the area delivering a high-quality scheme. Officers consider that the revised scheme addresses previous concerns and moreover would addresses the second and third reasons for refusal.

#### *Scale*

- 6.71 Officers acknowledge objections have been received from local residents raising concerns in relation to overlooking of the school and many have raised safeguarding issues.
- 6.72 The quantum of development has been reduced from six dwelling to five and now comprise a mix of two storey detached dwellings and bungalows. It was not disputed on the previous application that the scale of the dwellings *per se* was out of character with the area. However, it was considered that due to the location of the dwellings (as defined by the Layout Plan), coupled with their orientation, there would be an unacceptable level of overlooking to the neighbouring properties due to the Scale of the dwellings proposed.

6.73 In this context the previous delegated report noted:

*“In this case the site sits between residential dwellings to the south and west and Ryarsh school to the east.*

*The Council does not have a specific policy in regard to separation distances between first floor windows and rear gardens of neighbouring properties. The Kent Design Guide (paragraph 2.2.6) relates to privacy, this notes that “a flexible approach needs to be taken over privacy distances. Minimum distances are not prescribed, but developers must be able to put forward a good case for distances proposed depending on the circumstances”.*

*It is normally accepted that some overlooking of gardens by neighbours is inevitable in most medium to high density situations. However, the planning system may still operate to safeguard existing property owners from the worst excesses of garden overlooking. Some planning policies seek to ensure that gardens have at least some private areas which are not easily overlooked.*

*Perception of harm is also capable of being a material planning consideration and the perception of being overlooked can inhibit adjoining occupiers’ enjoyment of their garden. In this case this outside space relates to a school’s outside classroom space, nature trail and playing field.*

*The front elevations of the proposed dwellings would face towards the outside classroom space, nature trail and playing field of the adjacent primary school. Given the height/scale of the proposed dwellings thus being two storey, a number of first floor windows would create unacceptable overlooking and this is particularly the case for plot 1, which would also be overbearing when viewed from the outside classroom space.*

*The agent has reiterated that Appearance is not for consideration as part of this outline application and contends that the dwellings could be designed to alleviate overlooking to the front. However, concern is also raised in regard to overlooking to the rear gardens of those dwellings adjacent to the western boundary, in particular Orchard House, Little Ryarsh and Ryarsh Place. Therefore, in order to address overlooking it is considered that the design/appearance of the dwellings, (based on the Layout which is for consideration) would be contrived and as such not of a high standard or in keeping with the character and appearance of the area.*

*It is noted that there are trees along the boundary within the school grounds, which would provide some level of screening, during the summer months. It is also noted that whilst Landscaping is reserved for future consideration the indicative plans indicate new native tree planting to the front of the dwellings along the eastern boundary. However, whilst new planting is welcome and could have the potential to reduce the level of looking to the east, given the location of the dwellings to these trees, concern is raised over the loss of light/over shadowing and subsequent pressure to remove or heavily prune those trees in the future”*

- 6.74 The revised scheme proposes plots 1 and 2 to be single storey in scale this is considered to addresses both potential overlooking to the schools outside classroom area and also addresses overlooking to the dwellings to the rear. The reduction in scale to plots 1 and 2 also ensures that the proposal would not be overbearing when viewed from Ryarsh School outside classroom area.
- 6.75 It is acknowledged that plots 3 ,4 and 5 would still front and to some degree overlook the playing field, however, it is not uncommon for schools within a residential area to be overlooked to some extent from the dwellings that surrounding and serve it. The concern in relation to overlooking on the previous scheme related only to the outside classroom area.
- 6.76 While Officers note comments in relation to safeguarding, Officers are also mindful that to make assumption on future occupiers is inappropriate.
- 6.77 Conditions could be imposed to ensure that no windows are added in the future to plots 1 and 2 within the roof slope without prior approval from the LPA.
- 6.78 Officers are therefore of the opinion that the revised scheme subject to conditions would address previous concerns and as such reason refusal 1 has been addressed.

#### Ecology and trees

- 6.79 Policy NE2 of the MDE DPD outlines that the biodiversity of the Borough and in particular priority habitats, species and features, will be protected, conserved and enhanced. Policy NE3 of the MDE DPD also states 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 an overall enhancement. Proposals for development must make provision for the retention of the habitat and protection of its wildlife links.
- 6.80 The Council will impose conditions, where necessary and appropriate, to minimise disturbance, protect and enhance a site's ecological conservation value, to ensure appropriate management and monitoring and creating new or replacement habitats of enhanced ecological value.
- 6.81 Paragraph 187 of the NPPF advises planning decisions should contribute to and enhance the natural environment, including protecting and enhancing sites of biodiversity and minimising impacts on and providing net gains for biodiversity.
- 6.82 Paragraph 193 of the NPPF states if significant harm to biodiversity resulting from a development cannot be avoided through relocation, mitigation or compensated for, then planning permission should be refused, whilst opportunities to improve biodiversity in and around developments should be integrated as part of their design.

- 6.83 Turning first to ecology, the proposal is accompanied by a Preliminary Ecology Appraisal by PJC dated December 2024 and a Bat Survey Report by PJC dated February 2023.
- 6.84 KCC Ecological Advice Service has reviewed the submitted documents. The site has been confirmed as a day roost for common pipistrelle and brown long-eared bat, and as a hibernation roost for common pipistrelle. The preliminary ecological appraisal (PJC, Dec 24) details mitigation measures for both roost types. KCC Ecology are satisfied that sufficient information has been provided to determine the planning application, however further data will be required to inform the EPS licence.
- 6.85 The applicant has provided a response to KCC Ecology previous concerns in regard to hibernating bats and confirmed that the licence application will cover the loss of hibernation roost sites. KCC Ecology would have preferred that full hibernation and monitoring surveys were undertaken throughout the winter to establish the nature of the use of the site by roosting bats (i.e. transitional or permanent hibernation roost) however have accepted that due to the types of building the proposed mitigation is unlikely to change. However, KCC Ecology advise that the surveys are undertaken over winter to inform the detailed mitigation strategy required as part of the EPS licence. Due to the age of the survey data KCC Ecology highlight that updated emergence surveys will be required to inform the EPS licence and this will be secured via a condition.
- 6.86 Lighting in the vicinity of a bat roost or along commuting / foraging routes could constitute an offence both to a population and to individuals. Artificial lighting has been shown to be particularly harmful to bats along river corridors, near woodland edges and near hedgerows. Local authorities have a duty to ensure impacts upon legally protected species are avoided and impacts upon bats are a material consideration in any planning permission under the Natural Environment and Rural Communities (NERC) Act 2006 and through the NPPF 2024.
- 6.87 Therefore, to mitigate against potential adverse effects on biodiversity, the Bat Conservation Trust/Institute of Lighting Professional's 'Guidance Note 8 Bats and Artificial Lighting at Night' (or subsequent updates) should be consulted in the lighting design of the development.
- 6.88 KCC Ecology advise that the incorporation of sensitive lighting design for biodiversity is submitted to the local planning authority and secured via a condition with any planning permission
- 6.89 It is also note that additional ecological constraints have been identified such as the potential presence of nesting birds, reptiles, great crested newt (GCN), dormice and barn owl. However, due to the limited suitability of habitats for these species, further survey is considered to be disproportionate and may instead be avoided through the implementation of precautionary working methods. A pre-commencement survey for barn owl will be required.

- 6.90 In regard to barn owls – KCC Ecology note that the information available on the website in regard to barn owls has been redacted within the submitted PEA, however KCC has assumed that they are absent from the site at present. Due to the suitability of habitats onsite, it is recommended that a pre-commencement barn owl survey is undertaken by a licensed and suitably qualified ecologist, to search for evidence of barn owl presence. KCC Ecology note that this should be completed regardless of the time of year, as barn owls have been recorded breeding from January through to December.
- 6.91 Habitats onsite consist primarily of hardstanding, however there may be potential refugia opportunities for species such as GCN and reptiles, and there is some potential for dormice within retained hedgerows. Nesting birds may be present in both vegetation and buildings. There is also potential for hedgehog and badger to move across the site. Therefore, a condition is suggested for a precautionary working method statement to be submitted prior to the commencement of development.
- 6.92 In regard to BNG, under section 40 of the NERC Act (2006) and paragraph 187 of the NPPF (2024), biodiversity must be maintained and enhanced through the planning system. Additionally, in alignment with paragraph 193 of the NPPF (2024), the implementation of measurable net gains for biodiversity (integrated as part of design) should be encouraged.
- 6.93 Under the Environment Act 2021, it is now a national requirement that small scale developments must provide at least a 10% biodiversity net gain. This needs to be demonstrated via a biodiversity metric confirming the existing condition of the land and what enhancements will be provided to ensure there is an overall improvement of at least 10% across the site.
- 6.94 The application is accompanied by a BNG assessment (PJC January 2025), which determined that a net gain of 0.23 units (+94.14%) is achievable onsite, due to the creation of new gardens. The site currently comprises developed land, sealed surface and introduced shrub. Two trees are present which are due to be retained.
- 6.95 None of the proposed gains in relation to area habitats are considered to be significant, and none are able to be secured as they consist of hardstanding (biodiversity value of zero), or residential gardens (gains within residential curtilage cannot be secured). There will be a net gain of +0.89 hedgerow units (+151.80%), through the enhancement of existing hedgerows. These gains are not significant and can be secured through the implementation of a Biodiversity Enhancement Plan (BEP).
- 6.96 A Biodiversity Enhancement Plan should include habitat creation/enhancement measures as outlined within the BNG assessment (PJC, Jan 25), in addition to the enhancement measures outlined within the bat mitigation strategy (PEA, PJC Jan 25), and additional opportunities for increasing the value of the site for biodiversity.

#### Drainage

6.97 Development can result in increased surface water run-off and reduced infiltration of water into the ground. At the strategic level, Core Policy CP10 provides the framework for guiding development away from areas at high risk from flooding. Policy CC3 of MDE DPD relates sustainable drainage. This notes, "Development proposals will not be permitted unless they incorporate sustainable drainage systems (SUDS) appropriate to the local ground water and soil conditions, local drainage regimes and in accordance with the Groundwater Regulations. Where soil permeability is low, rainwater harvesting and/or green roofs should, where practicable, be integrated into the design of the development".

6.98 The application forms indicate foul sewage will be dealt with via mains drainage and surface water disposed of via SuDs. The application is accompanied by UNDA Surface Water Drainage Strategy (Ref 92621-Bridger-Ryarsh V2 February 2025). This sets out the drainage hierarchy and drainage strategy for the site and considers the provision of SuDs to be sufficient to ensure the development can be achieved without increasing flood risk within the locality in accordance with objective set by Central Government and the EA.

#### Open Space

6.99 Policy OS3 Managing Development and the Environment DPD requires open space provision for all residential developments of 5 units or above (net) in accordance with the standards set out in Policy Annex OS3. Annex D to the Managing Development and the Environment DPD sets out the methodology that was followed for implementing Policy OS3 in respect of the development proposal.

6.100 Where it is impractical or inappropriate to provide open space on-site, off-site provision (or a financial contribution towards it) will be sought commensurate with the quantitative and accessibility standards set out in Policy Annex OS3.

6.101 The proposal seeks to erect 5 dwellings and therefore, in accordance with Policy OS3, there will be a requirement for open space provision in accordance with the standards set out in Policy Annex OS3. Amenity space serving each of the dwellings is to be provided on site, however a financial contribution towards further off-site open space provision will be sought and secured via a section 106/Unilateral Undertaking. The contributions sought for this development should total £25,411

#### The Planning Balance/Tilted Balance.

6.102 It has already been acknowledged that the Council cannot currently demonstrate a five-year housing land supply. In these circumstances the presumption in favour of sustainable development as set out at paragraph 11 of the NPPF (2024) must be considered when assessing a development for house(s).

6.103 Consequently, permission should be granted unless as in this case the application of policies in the Framework that protect areas or assets of particular importance provides a 'strong' reason for refusing the development proposed.

- 6.104 It has been established that adverse impacts do not provide a 'strong' reason for refusing the development. Accordingly, the 'tilted balance' of Paragraph 11d(i) would not be displaced.
- 6.105 The application must therefore be considered against paragraph 11(d)(ii) of the NPPF and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 6.106 In terms of benefits, the scheme would provide the provision of five dwellings, in a sustainable location. The development would support the overarching aims of national and local planning policy in relation to housing delivery, and this attracts substantial weight in its favour of the proposal even acknowledging that the provision is only for five dwellings
- 6.107 The proposal would generate economic benefits, both short term during the construction phase, and during the lifetime of the development. It would create investment in the locality and increase spending in local shops and services. The NPPF advises that significant weight should be placed on the need to support economic growth and productivity. Such benefits should not be downplayed, and given the sites sustainable location they attract significant weight in favour of the proposal.
- 6.108 No objection is raised to the proposal in regard to the Conservation Area or to the setting of the adjacent Listed Building. Whilst the impact of removing the buildings in terms of the Conservation Area would be considered 'neutral', it is acknowledged that the proposal would re-use a curtilage listed building and enhance the setting of the listed wall to which 'moderate' positive weight is afforded to this element.
- 6.109 Having regard to the above, in applying paragraph 11(d)(ii) of the NPPF, it is considered that no unacceptable impact arising from the proposal has been identified that would significantly and demonstrably outweigh the potential benefits of the scheme. Therefore, the presumption in favour of development must apply in this case and consequently, the application is recommended for approval

**7. Recommendation: Approve subject to S106 and the following conditions**

**Heads and Terms of Section 106**

Contributions sought for this development should total £25,411

Parks & Gardens – £6,978

Amenity Green Spaces – £1,272

Outdoor Sports Facilities – £12,802

Children's and Young People's Play Areas – £1,681

Natural Green Space – £2,678



## Conditions

1. Approval of details of the external appearance and landscaping 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 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:

Application Forms received 20 March 2025

Topographical Survey – Drawing Nos. 31471 sheets 1 and 2 dated August 2022

Existing Floor Plans – Drawing No. P.01

Existing Elevations - Drawing No. P.02

Site location plan – Drawing No. P.09 Rev C

Street Scene – Drawing No. P.08 Rev C

Comparison Plan - Drawing No. P.11 Rec C

Site Layout Plan - Drawing No. P13

Site Plan over Topo Survey - Drawing No. P14

Proposed Site Access Road - Drawing No. P22109 001.

Vehicular Swept paths Analysis - Drawing No. P22109 TRK01

Preliminary Ecological Appraisal – by PJC document ref 6094E/24/01 Dated 11 December 2024

Biodiversity Net Gain Feasibility Assessment – by PJC document ref 6095E/24/01 Dated 20 February 2025

Bat Emergency Survey - by PJC document ref 5044E/22/01 dated 17 February 2023.

Biodiversity Metric Calculation received 21 March 2025

Flood Risk Assessment for Planning by UNDA document ref 92595-Bridger-Ryarsh-v2.0 Dated February 2025

Surface Water Drainage Strategy for Planning by UNDA document ref 92621-Bridger-Ryarsh-v2.0 Dated February 2025

Heritage Statement – by Kevin Wise dated 13 March 2025

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. The details submitted pursuant to Condition 1 shall be accompanied by a scheme of soft and hard landscaping and boundary treatment. All planting, seeding and turfing comprised in the approved scheme shall be implemented during the first planting season following occupation of the dwellings or the completion of the development, whichever is the earlier. Any trees or shrubs removed, dying, being seriously damaged or diseased within 10 years of planting shall be replaced in the next planting season with trees or shrubs of similar size and species. Any boundary fences or walls or similar structures as may be approved shall be erected before first occupation of the dwellings to which they relate.

Reason: In the interest of visual and residential amenity, to ensure suitably designed soft and hard landscaping is delivered upon completion of the development.

6. The details submitted in pursuance of Condition 1 shall include a schedule of external materials intended to be used in the construction of the new dwellings, The development shall thereafter be constructed in accordance with the approved schedule of external materials unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure a satisfactory appearance is achieved upon completion of the development and to minimise the visual impact on character of the site surroundings and the wider street scene.

7. Prior to the occupation of the first dwelling the parking provision and carports as shown on the approved site layout plan (Drawing No. P13) shall be provided, surfaced and drained in accordance with the approved details. Thereafter, no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to the reserved vehicle parking area

Reason: To ensure sufficient car parking spaces are readily available to the future occupiers upon completion of the development and to avoid so as to avoid

displacement of parked vehicles onto the public highway and thus harm to the flow of traffic and operation of the local highway network.

8. No part of the development hereby permitted shall be occupied unless and until the approved vehicular access has been laid out, surfaced with porous materials and drained in accordance with the approved details. Notwithstanding the provisions of Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and reenacting that Order), no gates, fences, walls or other means of enclosure shall be erected across the access hereby permitted without prior approval of the Local Planning Authority in writing.

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

9. Within six weeks prior to the commencement of development (including demolition) a pre commencement barn owl survey shall be carried out by a licensed surveyor. If a barn owl, or evidence of barn owl is recorded on site, a barn owl mitigation strategy shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the protection of wildlife species.

10. A mitigation strategy based on updated surveys will be required prior to commencement, this will inform the EPSL application. All mitigation for bats shall be carried out in accordance with the details contained in the new mitigation strategy, unless additional/alternative measures are required by Natural England. A granted Natural England bat mitigation licence must be in place prior to carrying out any works that could affect the bat roost(s) on-site. Should Natural England require less mitigation than that detailed within the report, then all remaining measures shall be included as enhancements under the National Planning Policy Framework 2024. Bat mitigation, and any enhancements, shall be implemented as above and retained thereafter.

Reason: to maintain the favourable conservation status of bats impacted by the development in accordance with Regulation 55 of The Conservation of Habitats and Species Regulations 2017.

11. No development shall take place (including any ground works, site or vegetation clearance) until a Precautionary Working Method Statement has been submitted to and approved in writing by the local planning authority. This shall include the following and be based on the submitted Preliminary Ecological Appraisal (PJC, Dec 24) and up-to-date ecological survey information, as advised by a suitably qualified ecologist:

- Purpose and objectives for the proposed works:
- The identification of biodiversity protection zones and the use of protective fences, exclusion barriers and warning signs;

- Detailed design(s) and/or working method(s) necessary to achieve stated objectives;
- Extent and location of proposed works (including receptor areas(s) in case animals are encountered during development) shown on appropriate scale maps and plans for all relevant species and habitats;
- Reference to the relevant protected species licences (e.g., bats) to be obtained in advance of site clearance/construction and any relevant mitigation measures required;
- Reference to any Environment Agency permits required and any relevant mitigation measures required [if required]
- Reference to or inclusion of a detailed arboricultural method statement to protect retained trees, including all trees with potential bat roost features
- Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
- Persons responsible for implementing the works, including times during construction when specialist ecologists need to be present on site to undertake / oversee works;
- Initial aftercare and reference to a long-term maintenance plan (where relevant);
- Disposal of any wastes for implementing work.

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

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

12. Prior to first occupation of the development hereby approved, a lighting design plan for biodiversity shall be submitted to, and approved in writing by, the local planning authority. The plan shall show the type and locations of external lighting, as well as the expected light spill in lux levels, to demonstrate that areas to be lit shall not adversely impact biodiversity. All external lighting shall be installed in accordance with the specifications and locations set out in the plan and shall be maintained thereafter.

Reason: To limit the impact of light pollution from artificial light in accordance with the NPPF 2024, paragraph 198(c).

13. Prior to first occupation of the development hereby approved, a Biodiversity Enhancement Plan shall be submitted to and approved in writing by the local planning authority. The plan shall include details of the following:
  - Habitat creation measures, including full details of hedgerow enhancements and any native tree, shrub or grassland creation
  - A full planting schedule utilising primarily native species;
  - Full elevations plans detailing the model and location of integral swift boxes at a 1:1 ratio for all new buildings (north/east facing, 4m from the ground and with unobstructed access);
  - Details of externally-mounted bat and bird boxes which are to be of durable construction and suitably located;

- Details of new log pile creation
- Details of new bee brick creation
- Locations of 13×13cm holes in closeboard fencing provided for hedgehogs
- Rolling, long-term maintenance measures covering up to a 30-year period; and
- Details of responsible persons.

Photographs of the log pile, hedgerow holes, bee bricks and all new bird and bat boxes in their installed locations plus context photographs are to be submitted to and approved in writing by the local planning authority prior to first occupation. The wildlife boxes are to be retained in that manner thereafter.

Reason: To protect and enhance biodiversity in accordance with paragraphs 187, 192 and 193 of the National Planning Policy Framework (December 2024), and in order for the Council to comply with Part 3 of the Natural Environment and Rural Communities Act 2006.

14. The development shall be carried out in accordance with the submitted flood risk assessment (ref. 92595-Bridger-Ryarsh-v200, dated February 2025) has been prepared by UNDA Consulting Ltd) and the mitigation measures it details. These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason(s): To reduce the risk of flooding to the proposed development and future occupants.

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

i geo-archaeological and 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 geo-archaeological and 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 geo-archaeological and archaeological interest are properly examined, recorded, reported and disseminated.

16. Prior to the occupation of the first dwelling, the development hereby approved shall be constructed in accordance with the approved Surface Water Drainage Strategy for Planning by UNDA document ref 92621-Bridger-Ryarsh-v2.0 Dated

February 2025 and maintained thereafter in accordance with the Drainage Maintenance Schedule therein.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficiency of the drainage provisions

17. No part of the development hereby permitted shall be occupied unless and until a plan which indicates the location of all areas for refuse collection and storage has been submitted to and approved in writing by the Local Planning Authority, pursuant to Condition 1. The bin storage and collection areas shall be provided in accordance with the approved details prior to first occupation of the dwellings.

Reason: To ensure sufficient space is available for storage and collection of bins and to avoid potential obstructions to site access and car parking.

18. Prior to any above ground works of the development hereby approved, arrangements for the management of any and all demolition and construction works shall be submitted to and approved by the Local Planning Authority. The management arrangements to be submitted shall include (but not necessarily be limited to) the following:
- The days of the week and hours of the day when the construction works will be limited to and measured to ensure these are adhered to;
  - Procedures for managing all traffic movements associated with the construction works including (but not limited to) the delivery of building materials to the site (including the times of the day when those deliveries will be permitted to take place and how/where materials will be offloaded into the site) and for the management of all other construction related traffic and measures to ensure these are adhered to;
  - Procedures for notifying neighbouring properties as to the ongoing timetabling of works, the nature of the works and likely their duration, with particular reference to any such works which may give rise to noise and disturbance and any other regular liaison or information dissemination; and
  - The specific arrangements for the parking of contractor's vehicles within or around the site during construction and any external storage of materials or plant throughout the construction phase.
  - The controls on noise and dust arising from the site with reference to current guidance.
  - Provision of measures to prevent the discharge of surface water onto the highway.
  - Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction.

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

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

- 19 The development hereby approved shall not be occupied until details of a Fire Sprinkler System, or an alternative fire safety strategy, have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in full accordance with the approved details prior to first occupation and shall be retained as such thereafter.

In the interests of fire safety and to ensure that adequate provision is made for emergency access, in accordance with Paragraph 117(d) of the National Planning Policy Framework.

### **Informatives**

Under paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 (as amended) every planning permission granted for the development of land in England is deemed to have been granted subject to the condition “(the biodiversity gain condition)” that development may not begin unless:

- (i) a) Biodiversity Gain Plan has been submitted to the planning authority, and  
b) the planning authority has approved the plan.
- (ii) This permission will require the submission and approval of a Biodiversity Gain Plan before development is begun.
- (iii) For guidance on the contents of the Biodiversity Gain Plan that must be submitted and agreed by the Council prior to the commencement of the consented development please see the Government Website: Submit a biodiversity gain plan ([www.gov.uk](http://www.gov.uk)).

During the demolition and construction phases, the hours of noisy working (including deliveries) likely to affect nearby properties should be restricted to Monday to Friday 07:30 hours - 18:30 hours; Saturday 08:00 to 13:00 hours; with no such work on Sundays or Public Holidays.

Although it would not be possible at this stage under Environmental Health legislation to prohibit the disposal of waste by incineration, the use of bonfires could lead to justified complaints from local residents. The disposal of demolition waste by incineration is also contrary to Waste Management Legislation. It is recommend that bonfires not be had at the site.

This permission does not purport to convey any legal right to undertake works or development on land outside the ownership of the applicant without the consent of the relevant landowners

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

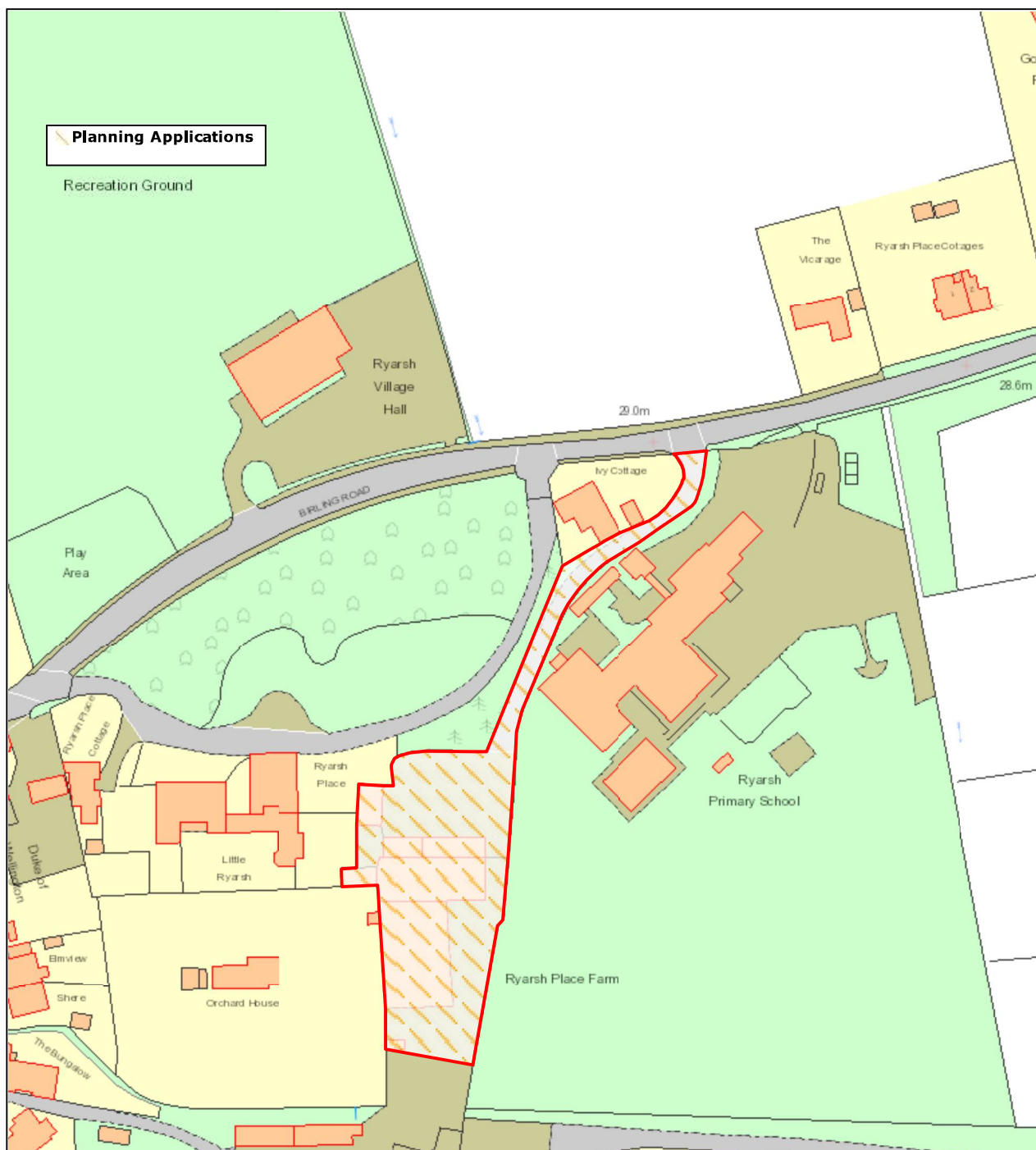
Guidance for applicants, including information about how to clarify the highway boundary and links to application forms for vehicular crossings and other highway matters, may be found on Kent County Council's website:

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

The Borough Council will need to create new street name(s) for this development together with a new street numbering scheme. To discuss the arrangements for the allocation of new street names and numbers you are asked to write to Street Naming & Numbering, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or to email to [addresses@tmhc.gov.uk](mailto:addresses@tmhc.gov.uk). To avoid difficulties, for first occupiers, you are advised to do this as soon as possible and, in any event, not less than one month before the new properties are ready for occupation.

Contact: Susan Field





**Planning Applications 25/00501/PA**

**Scale: 1:1250**



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



Date: 25/7/2025 12:32

©Crown Copyright and database rights 2022 Ordnance Survey  
100014703.

This page is intentionally left blank

---

**Platt**  
Borough Green And Platt

**6 AUGUST 2025**

**TM/24/01923/PA**

**Location:** LAND EAST OF LAND KNOWN AS MUMBLES FARM Crouch Lane  
Borough Green Sevenoaks TN15 8QL

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

**Go to:** [Recommendation](#)

---

## **1. Description of Proposal:**

- 1.1 This application seeks to establish the lawful stationing and occupation of a mobile home at Land East of Land Known as Mumbles Farm for human habitation. The applicant asserts that the above has been in place in excess of 10 years and therefore would now be lawful.

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

- 2.1 The application has been called in to the Development Control Committee by Councillors Wendy Palmer and Mike Taylor for the following reasons – *The proposal will have a detrimental impact upon the Green Belt with no special circumstances to justify the proposal being acceptable.*

## **3. The Site:**

- 3.1 The site lies within the countryside and within the Green Belt. The static caravan is sited on land east of Land Known as Mumbles Farm close to the field boundary of the site with the highway, Crouch Lane.

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

24/01452/PA – Adjacent land Known as Mumbles Farm

Certifies - 07 November 2024

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

24/00721/PA – Adjacent land Known as Mumbles Farm

Refuse - 09 July 2024

Lawful Development Certificate Existing: for the change of use of land for the siting of a static caravan for human habitation and land used in

conjunction with that human habitation, creating a caravan site as defined in the Caravan Sites Act 1968 Section 1(4)

**5. Consultees:**

Consultee	Summary of Comments
Parish Council	None received

**6. Determining Issues:**

- 6.1 It is first important to clarify that whilst the site is located within the Metropolitan Green Belt, consideration on whether the application would be inappropriate development or whether the proposal would harm the openness of the Green Belt is not for consideration in this case.
- 6.2 The issue with this application is to determine, on the balance of probability, the use for the land for a residential mobile home has been undertaken for a period exceeding ten years. Section 191 of the Town and Country Planning Act 1990 (as amended) allows for people to ascertain whether the works undertaken were lawful.
- 6.3 Section 171B of Part VII of the Town and Country Planning Act 1990 (as amended) states that;

*“In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach”.*

- 6.4 The NPPG provides advice on how applications for Certificates of Lawful Development are to be considered. It states at paragraph 006:

*“The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land...”*

*“In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant’s version of events less than probable, there is no good reason to refuse the*

*application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability".*

6.5 The evidence submitted by the applicant comprises:

Planning Statement

Site location Plan

Application Form

Enforcement letter

Signed declaration from Mr Tony Williams

Signed declaration from Mr Kevin Avery

Signed declaration from Mr Patrick Delaney

Signed declaration from Ms Peter Myles

The application is also accompanied by two appeal decisions as part of the planning statement:

- Appeal Ref: APP/L3245/X/19/3222768 - Clematis Cottage, 4 Rudge Heath Road, Rudge Heath, Claverley WV5 7DJ

- Appeal Ref: APP/B3410/X/19/3239498 - Annexe/Water Lodge, Lodge Hill, Tutbury, Burton-on-Trent, Staffordshire DE13 9HF

6.6 The Planning Statement confirms that 4 statutory declarations have been submitted and in summary that *"they all precisely and clearly identify the entire site with a title plan outlined in red, then go on to specify the specific extent of land mass subject to the application use, namely that of a caravan site, inserting a location plan, that matches the application document plan, showing the area outlined in red, with the remainder outlined in blue"*.

6.7 The application is accompanied by 4 sworn statutory declarations setting out evidence of fact. This evidence, having been sworn before a solicitor is subject to the Statutory Declarations Act 1835, filing a false declaration knowingly and wilfully is a criminal offence under Section 5 of the Perjury Act 1911 and you may be imprisoned for up to 2 years or fined or both.

6.8 The planning statement also contends that *"If a Local Planning Authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability."*

6.9 The timeline summary within the Planning Statement is set out as follows:

- Change of use of the Caravan from ancillary to agriculture to use for human habitation commences – 14<sup>th</sup> December 2013 (by Mr Kevin Avery)
- Time of application submission – 2<sup>nd</sup> December 2024
- Total time used for human habitation prior to Application submission – 11 years (at least).

6.10 In support of the claim the declaration evidence sets out the following:

*March 2012*

6.11 Mr Myles wrote to the council setting out that he was replacing the two tourers with a static caravan and at that time was being used as a welfare unit whilst tending the land. Evidence has been provided of the letter submitted and imagery showing the replacement static caravan.

*December 2013*

6.12 Mr Myles (Point 8, page 1) further sets out that following the static caravan being used as a welfare unit for almost 2 years it's use was then changed in December 2013 to that of human habitation by a Mr Kevin Avery.

*September 2023*

6.13 Mr Myles goes on to state that the use of the static caravan for human habitation continued until the 8th of September 2023 where the caravan was then sold. A period of 9 years and 9 months (but for 5 days). He also confirms that at no point did the use cease or change from human habitation during Mr Avery's time living in the caravan.

6.14 Mr Myles also rebuts and refutes the enforcement file 15/00380 that a site visit was undertaken, and the caravan was not being lived in which is addressed at point 10 of the Statutory Declaration.

6.15 Mr Myles acknowledges that the change of use of the land to a caravan site and the use of the static home for human habitation by Mr Kevin Avery alone would not be sufficient to be immune from enforcement as the use had not continued for a period of 10 years, however a further Statutory Declaration by Mr Patrick Delaney confirms the continued use of the site for in excess of 10 years.

6.16 A further Statutory Declaration by Mr Kevin Avery set out the timeline of when he moved into the static caravan (point 3) on December 14th, 2013, and this was his sole and primary residential home until the 8th of September 2023. Again, Mr Avery refutes the enforcement file note and confirms he was living in the caravan at the time of the enforcement visit.

6.17 Another Statutory Declaration from Mr Patrick Delaney confirms that he purchased the static caravan on the 8th of September. He further confirms (point 5) that he

moved into the static caravan on the 14th of September 2023 and that he continued to live in the property until the 23rd of June 2024. The Statutory Declaration then confirms that a Miss Molly Nicholson moved in on the 7th of July 2024 and remains occupying the static caravan at the time of the application.

- 6.18 In total, the combination of Mr Myles and Mr Avery's occupation of the static caravan would amount to more than 10 years. Whilst it is acknowledged there have been some vacant days between the sale and purchase of the static caravan between owners, it is considered this would not amount to a material break or cessation of use.
- 6.19 Finally, another Statutory Declaration has been submitted to support the Certificate from Mr Tony Williams who confirms that Mr Kevin Avery was living at the property as outlined within the other submitted Statutory Declarations (point 6).
- 6.20 The Planning Statement confirms that there are no Council Tax or Business Rate records for the site and contends this does not in of itself determine that a change of use has not taken place as outline within the Statutory Declarations. The statement further refers to the appeal matters submitted in support of the applications which have determined similar matters and considered on balance that the absence of a Council Tax record would not preclude a Certificate being issued, as long as the other evidence submitted is sufficient precise and unambiguous.

### **LPA's Evidence**

- 6.21 In addition to the evidence submitted by the applicant it is also necessary to consider the evidence in possession of the Local Planning Authority.
- 6.22 It is noted that concerns have previously been raised that neighbours have driven past the site on occasions in the last ten years and there was no indication that anyone was living at Mumbles Farm. The LPA acknowledge these comments but affords them little weight in its assessment of the application as they are not substantiated by any evidence.
- 6.23 The LPA visited the site in 2015/16 (Enforcement Reference 15/00380/USEM) in connection with the caravan being in residential occupation. Following the LPA's investigation, which including visiting the site, the LPA concluded that the caravan was not being used for human habitation, rather it was only stationed on the land or used as a welfare unit. The officer reported that the caravan on site is not occupied and is used as shelter when the owner of the site is on the farm. Such a use does not require the benefit of planning permission from the LPA. Therefore, it was concluded as part of the Enforcement Investigation that no breach of planning control was occurring.
- 6.24 The LPA must afford this weight in its assessment of the application.
- 6.25 The statement on file is however somewhat ambiguous as it states "I visited the site and observed a caravan in situ. It did not appear to be inhabited". (my emphasis added). This statement implies that an internal inspection of the caravan was unlikely

to have been undertaken.

- 6.26 Other than this however, the LPA have no evidence to question the assertion or versions of events as set out within the sworn Statutory Declaration which should be attributed significant weight in the balance.

**Comments on the applicant's evidence in light of the Councils evidence.**

- 6.27 The LPA acknowledges that it does not have any substantive evidence to refute the evidence submitted by Mr Myles, Mr Avery, Mr Delaney and Mr Williams and as such on the balance of probabilities it is accepted that the caravan has been used for residential purposes from December 2013 to date.
- 6.28 The LPA acknowledges the two appeal decisions submitted in regard to Council Tax and accepts the Inspectors finding in relation to those appeals. It also acknowledges that the current owner has not registered for Council Tax, this is a separate function outside of planning and can be referred to the appropriate Team within the Council to further consider.

**Conclusion**

- 6.29 The onus rests with an applicant to provide sufficient information to make their case in relation to a CLUED application. However, if the LPA has no evidence itself, nor any from others, to contradict or otherwise make the applicants version of events less than probable, there is no good reason to refuse to grant a certificate, provided the appellant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.
- 6.30 In light of the above the applicant **has been** able to be demonstrated that on the balance of probability, the caravan has been on the site for over 10 years and continuously occupied for human habitation throughout this period, which continues to today. The application can therefore be certified in this regard.

**7. Recommendation: Certificate of Lawfulness is Lawful.**

- 7.1 Certifies in accordance with the following submitted details:

Planning Statement

Site location Plan

Signed declaration from Mr Tony Williams

Signed declaration from Mr Kevin Avery

Signed declaration from Mr Patrick Delaney

Signed declaration from Ms Peter Myles



The application is also accompanied by two appeal decisions:

- Appeal Ref: APP/L3245/X/19/3222768 - Clematis Cottage, 4 Rudge Heath Road, Rudge Heath, Claverley WV5 7DJ

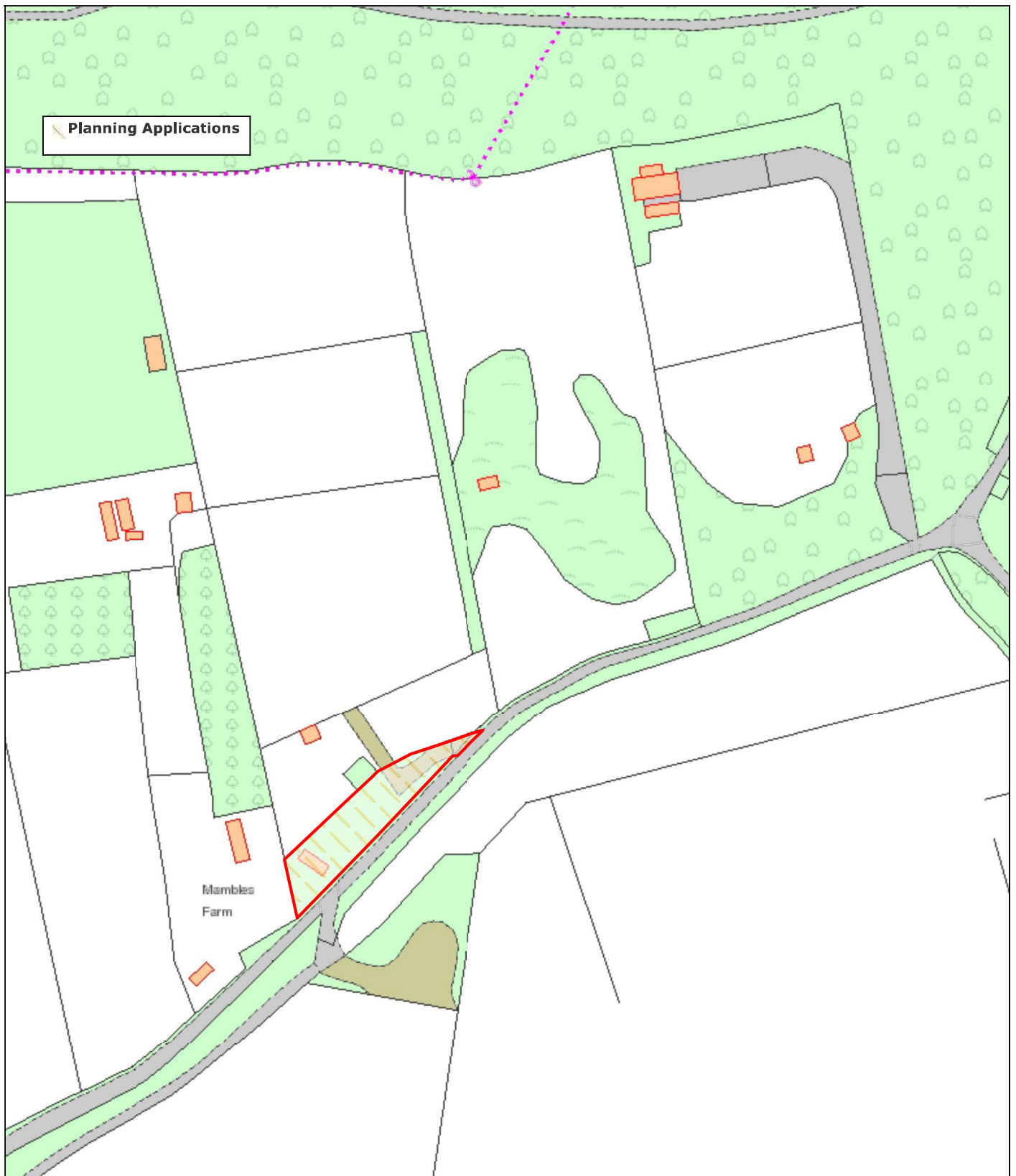
- Appeal Ref: APP/B3410/X/19/3239498 - Annexe/Water Lodge, Lodge Hill, Tutbury, Burton-on-Trent, Staffordshire DE13 9HF

**Conditions/Reasons:**

1. The submitted evidence is sufficiently clear and unambiguous to support, on a balance of probabilities, the conclusion that the mobile home at Land east of Land Known as Mumbles Farm has been occupied as a residential dwellinghouse for a period in excess of 10 years prior to the submission of the application.

Contact: Phillip Richards

This page is intentionally left blank



**Planning Applications 24/01923/PA**

**Scale: 1:1250**



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



Date: 21/7/2025 11:29

This page is intentionally left blank

---

**Leybourne**

**6 AUGUST 2025**

**TM/24/01969/PA**

Birling Leybourne And Ryarsh

**Location:** 2 BAYWELL LEYBOURNE WEST MALLING ME19 5QQ

**Proposal:** Outline Application: all matters reserved for: Demolition of existing garage and erection of new detached self build dwelling

**Go to:** [Recommendation](#)

---

## 1. Description of Proposal:

- 1.1 The application seeks outline planning permission for the subdivision of an existing residential plot and the erection of a detached, four-bedroom, two storey dwelling, following the demolition of the existing detached double garage. All matters are reserved as part of this application and therefore it is the principle of development only under consideration. However, comments will be provided on other relevant matters in establishing the principle of the proposed development at the site.

## 2. Reason for reporting to Committee:

- 2.1 The application was called to committee by Councillor Boxall for the following reasons:

“The proposed development at 2 Baywell, Leybourne, constitutes overdevelopment of a constrained residential plot and would result in demonstrable harm to the character, safety, amenity, and environmental quality of the area. The application is contrary to Policy CP24 of the Tonbridge & Malling Core Strategy (2007), which requires development to be well-designed, of high quality, and respectful of its surroundings. Expanded Grounds for Call in:

1. Overdevelopment and Incompatibility with Local Character The proposal seeks to insert a new detached dwelling into a narrow and shallow plot by subdividing the garden of an existing property. This results in • Two dwellings (existing and proposed) being tightly packed with minimal separation. • Loss of green frontage and visual openness, replaced by hardstanding and gravel. • A significant departure from the established pattern of development along the shared driveway, where all other properties benefit from garages, generous spacing, and landscaped frontages. This level of intensification is excessive for the site and constitutes overdevelopment, leading to a visibly discordant and cramped form of development.

2. Demonstrable Harm to Highway Safety The proposed parking and turning arrangements are inadequate. Vehicles associated with both the existing and proposed dwellings would likely need to reverse along a narrow shared driveway and onto Baywell, close to a T-junction with Oxley Shaw Lane. This creates: • A

foreseeable risk of collisions with passing traffic. • Danger to pedestrians, particularly near a bus stop, speed bump, and school crossing point. • Increased likelihood of on-street parking in already constrained and sensitive locations.

3. Loss of Residential Amenity The proposed two-storey dwelling would directly overlook neighbouring properties, particularly a bungalow to the rear, resulting in: • Loss of privacy and outlook. • A diminished sense of openness for adjacent residents. • Increased noise and activity in a previously quiet garden area.

4. Environmental and Ecological Impact The site forms part of a semi-wild garden adjacent to a mature hedgerow and wildlife corridor. Despite evidence of protected species (e.g. stag beetles, bats, nesting birds), the application: • Fails to provide an ecological survey, contrary to national and local biodiversity policies. • Risks irreversible harm to local habitats, in breach of the Biodiversity Net Gain requirement.

5. Drainage and Infrastructure Concerns The area has a known history of drainage issues. The application does not demonstrate: • That the existing foul and surface water systems can accommodate additional load. • Any professional assessment of the drainage network's capacity or fall gradient.

6. Construction Phase Disruption and Nuisance The shared driveway is not designed for heavy construction traffic. The absence of a construction management plan raises concerns about: • Damage to shared infrastructure, including concrete slabs and underground services. • Obstruction and nuisance to neighbouring residents during the build phase."

### **3. The Site:**

- 3.1 The application site is located on a private drive set back from and overlooking Oxley Shaw Lane, the spine road that runs through main urban area. Number 2 Baywell is located at the end of the private drive. The site abuts a path which joins Oxley Shaw Lane with Rectory Lane South. The site is currently occupied by a double garage and garden space associated with the host dwelling. The immediate setting comprises a run of four detached houses set back from the passing highway, Oxley Shaw Lane.
- 3.2 The application site forms part of the side garden of 2 Baywell, a detached house on a relatively large plot at the end of a private drive.
- 3.3 The site is located within the urban area of Leybourne.
- 3.4 Existing vehicle access is to be provided off of the existing private drive which serves the existing properties.
- 3.5 There is a Public Right of Way MR577 which briefly runs along the north western boundary of the site.

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

08/00913/FL

Approved - 07 May 2008

White upvc reinforced framed conservatory with faced brickwork

04/03402/FL

Grant With Conditions - 05 November 2004

Variation of condition 1 of TM/99/1465/FL (two storey side extension and alterations to existing bay) to allow a further 5 years in which to implement planning permission

99/01465/FL

Grant With Conditions - 14 October 1999

two storey side extension and alterations to existing bay

93/00799/FL

Grant With Conditions - 20 May 1993

Two storey side extension (garage with study over)

79/11035/OLD

Grant With Conditions - 13 July 1979

Master plan of residential development of 108.5 acres of land (including proposed density ranges, phasing, infrastructure, open space, shopping and community facilities).

## 5. Consultees:

Consultee	Summary of comments
Parish Council	Laybourne Parish Council -  We are writing to register our formal objection to the above-referenced planning application, which proposes the demolition of two garages and the construction of a new dwelling at the end of a private shared driveway serving four existing homes.

	<p>While we understand that the application is currently in outline form, we have serious concerns about both the principle and the indicative form of development being proposed. Our objections are based on several material planning considerations, and we urge Tonbridge and Malling Borough Council to refuse the application for the reasons set out below.</p> <p><b>1. Overdevelopment of a Constrained Plot – CP24 Core Strategy</b></p> <p>The proposal constitutes a clear case of overdevelopment. The site in question is irregularly shaped, significantly narrower at the rear, and was never designed or designated to accommodate an additional residential dwelling.</p> <p>While we recognise that the current application seeks permission for a single dwelling in outline, and does not define the final form of the building, we note that the indicative plans suggest a four-bedroom detached house in keeping with the existing neighbouring properties. This only reinforces our concern: the site is not suitable for any type of additional detached dwelling, regardless of its size or architectural design.</p> <p>The scale and massing shown in the indicative drawings would be entirely out of keeping with the site constraints, and would represent a forced, cramped addition to the established pattern of development. This would be contrary to Core Policy CP24 of the Tonbridge and Malling Core Strategy, which requires new development to respect the site's context and deliver a layout, scale and density appropriate to the surroundings.</p> <p><b>2. Misleading and Inaccurate Indicative Plans – Material Planning Consideration</b></p> <p>A fundamental concern is that the submitted indicative plans contain material inaccuracies. For example:</p> <p>In our opinion the plan misleadingly indicates that two cars can be parked in front of the existing property at No. 2 without encroaching the shared driveway and obstructing access. In reality, it is not possible to park two vehicles there without encroaching onto the shared access driveway, thereby restricting movement to the proposed new dwelling.</p> <p>The submitted layout fails to acknowledge the true dimensions and constraints of the plot, including the</p>
--	---



	<p>tapering rear boundary and proximity to neighbouring dwellings.</p> <p>These inaccuracies are significant and undermine the integrity of the application. Where plans are materially misleading, it is entirely appropriate for the Council to refuse the application on that basis alone.</p> <p><b>3. Loss of Turning Circle and Increased Highway Risk – SQ8</b></p> <p>The proposal would eliminate the current informal turning head at the end of the shared access. This turning space is essential for:</p> <p>Safe manoeuvring Access by emergency and delivery vehicles Ensuring vehicles do not have to reverse down the length of the driveway</p> <p>Removing this facility would seriously compromise highway safety, in direct conflict with Policy SQ8 of the Managing Development and the Environment DPD, which stipulates that development must not create or exacerbate hazards on the highway.</p> <p>Additionally, we are concerned that vehicles displaced from the existing parking spaces at No 2 and those of the proposed new property would be unable to turn and would end up parking on the tight and dangerous corner where the drive meets Baywell, affecting visibility and safety or, on Oxley Shaw Lane, which is the main route through the estate and already has speed restriction bumps because of safety concerns on the road.</p> <p><b>4. Poor Residential Amenity – National Planning Policy Framework (NPPF)</b></p> <p>The indicative layout suggests a house positioned on a narrowing, awkwardly shaped plot that could only support a very small or oddly configured rear garden. This would result in:</p> <p>Substandard outdoor amenity space for future occupants;</p> <p>Potential loss of daylight and outlook for neighbouring properties.</p>
--	--

	<p>An overbearing structure close to rear boundaries of existing homes;</p> <p>The proposal fails to meet the requirement in Paragraph 130 of the NPPF, which states that developments should create a high standard of amenity for existing and future users.</p> <p><b>5. Unclear Legal Access Rights – A Material Planning Issue</b></p> <p>The proposed dwelling would rely on access via a shared private driveway, which was granted rights of way to the four existing properties as part of the original development. It is not clear that such rights would extend to a new fifth dwelling, and there is no evidence that the applicant has secured such access.</p> <p>This is a material consideration in planning terms. If rights cannot be granted, there is no alternative means of access to the site, meaning the dwelling would be effectively landlocked and incapable of lawful use.</p> <p><b>6. Conclusion – Request for Refusal</b></p> <p>In summary, the proposal is flawed on both technical and planning grounds. It represents overdevelopment of a constrained plot, relies on inaccurate information, compromises access and safety, and offers substandard amenity. Furthermore, legal access rights are uncertain. The application conflicts with multiple local and national policies, including:</p> <p>Core Strategy CP24 – design, scale and character  Policy SQ8 – highway safety  NPPF Paragraph 130 – residential amenity  Material planning considerations – accuracy of drawings, access rights</p> <p>We therefore urge the Planning Officer to recommend refusal of this application in the interest of protecting the safety, character, and amenity of the area.</p>
Environmental Protection	No objection subject to condition regarding working hours
Waste Services	Standard Advice applies
Southern Water	Outside of supply area.

Private Reps Site Notice Press Notice	<p>Fourteen letters of objection have been received from eight properties which are summarised as follows:</p> <p>Overdevelopment Out of keeping with streetscene Inadequate Services Insufficient parking No consultation with neighbours Restrictive covenant on the access Landlocked site Inadequate land to turn vehicles on site Inadequate onsite parking Inadequate drainage provision Ecology concerns Impacts on residential amenity Overlooking Loss of privacy</p>
---	--

## 6. Determining Issues:

### Relevant Policy Considerations

6.1 The Adopted Local Development Plan comprising:

- Tonbridge & Malling Borough Core Strategy (2007)
- Managing Development and the Environment DPD (2010)
- Saved Policies (Local Plan) (1998)

### Relevant Material Considerations

- National Planning Policy Framework 2024
- National Planning Policy Guidance

## 6.2 Assessment of Impact:

### Principle of Development

6.3 The Council cannot currently demonstrate an up-to-date five-year supply of housing when measured against its objectively assessed need (OAN). In the absence of a five-year supply of housing, it is necessary to apply the presumption in favour of development as set out in paragraph 11 of the National Planning Policy Framework 2024 (NPPF). For decision taking this means:

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

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

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

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

- 6.4 In undertaking this exercise, it must be recognised that the adopted development plan remains the starting point for the determination of any planning application (as required by s.38 (6) of the Planning and Compulsory Purchase Act 2004) and which is reiterated at paragraph 12 of the NPPF. The consequence of this in these circumstances must be an exercise to establish conformity between the development plan and the policies contained within the Framework as a whole.
- 6.5 Policy CP11 of the Tonbridge and Malling Borough Core Strategy 2007 (TMBCS) is the most relevant to the determination of this application as it addresses the matter of the principle of development for residential development in the urban confines of Leybourne. Policy CP11 outlines that development will be concentrated within the confines of urban Areas. The development involves the provision of a residential dwellinghouse within the urban confines. Therefore, the principle of development is acceptable, complying with Policy CP11.
- 6.6 With regards to the application of the presumption in favour of sustainable development, regard must first be had to whether any restrictive policies within the Framework (paragraph 11 d (i), footnote 7) provide a clear reason for refusing the development proposed. In this case, none of the policies referred to in Footnote 7 of the NPPF apply to the site the subject of this application. As such, pursuant to paragraph 11(d) (ii) of the NPPF, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when the proposal is assessed against the policies in the Framework taken as a whole. It is on this basis that the remainder of the assessment takes place.

#### Provision of Housing

- 6.7 Paragraph 61 of the NPPF sets out that, to support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it’s needed, that the needs of groups with specific housing requirements are addressed and that land with permission is

developed without unnecessary delay.

- 6.8 Paragraph 73 of the NPPF acknowledges that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, are essential for Small and Medium Enterprise housebuilders to deliver new homes and are often built out relatively quickly. It adds that LPA's should support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes. To make effective use of land, Paragraph 125 d) of the NPPF requires planning decisions to promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively.
- 6.9 With regard to the above, it is acknowledged that the provision of a dwelling would be considered a 'small site', however, together with other windfall sites in the Borough, would still make a positive contribution towards the Council's housing supply.
- 6.10 The provision of a net increase of one additional dwelling, given the shortage of housing land supply in the Borough, is a matter that attracts positive weight in the overall planning balance, but this weight is scaled to the fact that only one additional dwelling is proposed in the context of the overall housing need in the Borough.

#### Residential amenity

- 6.11 Paragraph 135 f) of the NPPF states that planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 6.12 Policy CP1 of the TMBCS requires all new development to result in a high-quality sustainable environment and (inter alia) in determining planning applications residential amenity will be preserved and where possible enhanced.
- 6.13 Policy CP24 of the TMBCS outlines that development by virtue of its design which would be detrimental to amenity will not be permitted.
- 6.14 Third party comments have raised concerns (amongst others) that the proposal would result in loss of privacy and be overbearing.
- 6.15 The application site is in an urban setting, where existing houses cluster loosely together with each other. The siting for the proposed new dwelling is indicative at this stage given all matters are reserved. It is therefore difficult at this stage to be certain of impacts upon neighbouring amenities. However, the indicative siting is likely to be a close representation of the siting sought at reserved matters stage, given the size of the plot.
- 6.16 Whilst a property at the end of this row of dwellings would not result in any harmful overbearing and is unlikely to result in overshadowing to nearby properties, there could be a conflict with regards to overlooking. Due to the angled rear boundary line with 11 Highberry, new first floor rear facing windows, if serving habitable rooms,

could lead to unacceptable overlooking due to the limited distances between any proposed rear elevation and the rear garden to 11 Highberry which abuts the rear boundary of the site. It would therefore be prudent to add an informative to any grant of permission to advise the applicant of the need to consider siting habitable room windows to the front and south western side elevation. The design of the proposed dwelling could be as such, so as to avoid significant levels of overlooking. These matters would be considered as part of the reserved matters applications.

- 6.17 The closest residential properties are the host dwelling itself and the neighbouring properties to the south west and south east. The proposal would be situated a minimum of approximately 19.5m from the closed property to the south east, 11 Highbury, and approximately 30m from the properties to the south west. Given the separation distances, it is not considered the proposal would result in adverse harms to the neighbouring amenities by of overbearing or overshadowing as mentioned above.
- 6.18 Given the siting, scale, and retained separation distances between properties, the proposal would not create unacceptable impact on the residential amenity of the neighbouring properties in terms of light, privacy or overlooking of garden areas, over and above, the existing situation.
- 6.19 With all matters reserved the view as based on the indicative siting and elevations is that a dwelling on the proposed site could be located and designed so as not to cause any adverse impact upon the amenities of neighbouring properties. As such, the proposal would comply with Policy P4/12 of the TMBLP.

#### Design, material, streetscene and character of the area

- 6.20 Policy CP1 of the TMBCS states that all proposals for new development must result in a high quality sustainable environment. This is expanded upon in sub paragraph 6.1.5 and includes matters such as making efficient use of land and making a positive contribution to local distinctiveness, character, townscape and the setting of settlements.
- 6.21 Policy CP24 of the TMBCS sets out a number of key objectives in terms of design. It requires that:
- “1. All development must be well designed and of a high quality in terms of detailing and use of appropriate materials, and must through its scale, density, layout, siting, character and appearance be designed to respect the site and its surroundings.*
- 2. All development should accord with the detailed advice contained in Kent Design, By Design and Secured by Design and other Supplementary Planning Documents such as Village Design Statements and Planning Briefs and, wherever possible, should make a positive contribution towards the enhancement of the appearance and safety of the area.*

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

6.22 Policy SQ1 of the Managing Development and the Environment Development Plan Document 2010 (MDE DPD) states:

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

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

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

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

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

6.24 In particular, paragraph 135 of the NPPF 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 Chapter 11 of the NPPF is specifically focused on ‘Making effective use of land’. Paragraph 124 states that:

- 6.26 *“Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.”*
- 6.27 The proposal involves the demolition of an existing garage which is in association with No. 2 Baywell. The garage itself is of no special architectural interest and is of a residential character in connection with the host property. As such the demolition is considered acceptable and the removal of the garage would have no harmful upon the character of the area.
- 6.28 Third party comments have raised concerns over the impact of the proposed development on the character and appearance of the area and that it would not be in keeping with surrounding area as the proposal would result in a smaller plot and result in a cramped appearance.
- 6.29 Within the area there is a variety of property styles, overall size, form and design. The new dwelling would therefore be likely to integrate into the varied character of the area once design details are assessed at reserved matters stage. The new dwelling would be located to the west of the host property and would be set back by at least 10 metres from the road. The position of the dwelling has been indicated to follow the established stagger in the building line. Whilst final details are to be secured by way of the reserved matters application, the principle of a new dwelling in this location would be acceptable. The overall height and bulk of the proposed new dwelling would also likely be in keeping with the character of the area given the varied building design within the area which would, therefore, not cause significant harm to the character and appearance of the area. The resultant plot size may be slightly smaller than the others in the row of 4 along this shared driveway, however not so significantly smaller as to appear discordant with the prevailing plot sizes in the wider area.
- 6.30 Overall, the proposed dwelling would likely correspond well to the scale, form and massing of the adjoining properties and would not dominate the streetscene along Baywell. As such, the proposed development would correspond well to its surroundings and would be in keeping with the landscape character of the area. Final details of the design of the dwelling are to be secured through the reserved matters application. At this time, the principle of a dwelling on the site as indicated upon the supporting drawings, would be acceptable.
- 6.31 As such, it is considered that the proposal would result in a scheme that would assimilate well with the overall form and layout of its surroundings, in compliance with paragraph 135 of the NPPF, Policy CP24 of the TMBCS and Policy SQ1 of the MDE DPD.

Highway safety and parking provision

- 6.32 Policy SQ8 of the MDE DPD states that development will only be permitted where there will be no significant harm to highway safety. Paragraph 115 of the NPPF



requires development to promote sustainable transport modes, provide safe and sustainable access to the site, the design of any road layout to reflect current national guidance and any significant impact on the highway to be assessed. Paragraph 116 continues to state that development should only be refused on transport grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts of the development would be severe.

- 6.33 It is acknowledged that objections have been raised from residents with regards to the proposed use of the existing access. However, this is an existing access which serves 4 dwellings, and it is considered that a further dwelling in this location would not result in severe harm to the local highway network. Notwithstanding any private matters outside of the planning process, it is considered that an existing access would be acceptable for an additional dwelling. The proposal for one dwelling does not trigger a consultation with the Highways Authority.
- 6.34 Concern has been raised from neighbouring properties regarding the limited width of the access road. The existing property is served by a shared access road, which is not being changed in any way. It is considered the access would be adequate to serve one additional dwelling. The proposed site plan shows an area to the frontage wherein two vehicles appear to be able to park which would accord with the parking requirements for a 3-bed dwelling.
- 6.35 Further concerns have been raised with regards to the size of the proposed parking spaces. In reviewing the indicative drawings, the frontage area where vehicles would park measures 5 metres so would accord with the space requirements for a parking space. In addition, concerns with regards to turning on site have been raised. As the application is for outline permission with all matters reserved, access matters are for determination at RM stage. Notwithstanding this, an informative to advise the applicant that appropriate manoeuvring space should be demonstrated at RM stage.
- 6.36 Accordingly, the development would not have an unacceptable impact upon highway safety and parking provision, adhering to Saved Policy P4/12 of the TMBLP, Policy SQ8 of the MDE DPD and paragraphs 115 and 116 of the NPPF.

### Trees

- 6.37 The applicant has indicated in their design and access statement that the existing landscape features would be retained. There are several large trees located outside of the application site, to the west which have a positive impact upon the character of the area. Further details with regards to the placement of the dwelling within the site, tree protection and services plans would be required as part of the reserved matters application suitably conditioned at that stage.
- 6.38 It is considered at this time that there are no significant trees that would be impacted as a result of the proposed development. No objections have been received with regards to on site trees or landscape features, further given that the site is within an existing urban, built-up area limited harms would result. As such, the principle of the

proposal is considered to be acceptable in this regard.

#### Biodiversity and Ecology

- 6.39 Policy NE2 of the MDE DPD seeks to protect, conserve and enhance the biodiversity of the borough, in particular priority habitats, species and features. The restoration and creation of new habitats will be pursued. Policy NE3 of the MDE DPD further states that development that would adversely affect the biodiversity will only be permitted if appropriate mitigation and/or compensation measures are provided within the site. Proposals must make provision of 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.
- 6.40 Policy NE4 seeks to maintain and enhance tree cover and the hedgerow network.
- 6.41 Paragraph 187 of the NPPF advises that planning decisions should contribute to and enhance the natural environment, including protecting and enhancing sites of biodiversity and minimising impacts on and providing net gains for biodiversity. Paragraph 193 of the NPPF states that if significant harm to biodiversity resulting from a development cannot be avoided through relocation, mitigation or compensated for, then planning permission should be refused, whilst opportunities to improve biodiversity in and around developments should be integrated as part of their design.
- 6.42 In regard to biodiversity, it is now a national requirement that small scale developments must provide at least a 10% biodiversity net gain.
- 6.43 In this instance, the proposal seeks to retain the existing trees and boundary features and provide a self-build dwelling.
- 6.44 As part of the Biodiversity Net Gain (BNG) requirements, self-build dwellings are exempt from the provision of a 10% BNG.
- 6.45 A Unilateral Undertaking confirming that the development is to be a self-built and thus exempt from BNG has been submitted and is under consideration by the Legal Department. Subject to the signing of this agreement, it is considered that the proposal would be a self-build and thus exempt from BNG.
- 6.46 On this basis, no objections are raised in this regard.

#### Public Right of Way

- 6.47 Public Right of Way Footpath MR577 lays to the west of the property, as such Kent Public Rights of Way (PRoW) have been consulted. They have not raised any objection to the proposal subject to the several informative to notify the applicant that the granting of Planning Permission does not confer any other permission or consent with regards to the Public Rights of Way. These informatives have been added.

- 6.48 Given the proximity of the PRow, the proposal would alter the character and experience of this footpath. However, it is considered that the proposal would not result in detrimental harms in this regard. The PRow is situated within a built-up area wherein there is existing built form in close proximity to the footpath. Whilst the proposal would add further bulk at first floor over the existing garage in place, this would not result in significant harm given the context of the footpath within a built-up area.

#### Archaeological Notification Area

- 6.49 The application site is situated within an Archaeological Notification Area, as such, KCC Heritage have been consulted. Comments have not yet been received; however, this has been followed up and comments requested. It is anticipated that a condition would likely be required to ensure the archaeological potential of the site is recorded and appropriate excavation techniques are undertaken. A cautionary approach is recommended in this instance and as such a condition has been imposed to this effect. Should the comments of KCC Heritage not require such a condition, this will be reviewed and reflected in the supplementary agenda paper.

#### Planning Balance

- 6.50 For the reasons set out above, the presumption in favour of development is engaged on this application. It has already been established that the proposal would not result in harm to any protected areas or assets and there is no strong reason to refuse the application in accordance with Paragraph 11 d) (i) of the NPPF.
- 6.51 Therefore, in this case paragraph 11 d) (ii) is applicable and the application should only be refused if 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, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well designed places and providing affordable homes, individually or in combination.
- 6.52 In weighing the proposal in the overall planning balance, as noted above, the council cannot currently demonstrate a 5 year housing land supply. Substantial weight should be attributed to all housing schemes even though it is noted that in this case the provision of only one additional dwelling.
- 6.53 It is considered that no unacceptable impacts arising from the proposal have been identified that would significantly and demonstrably outweigh the potential benefits of the scheme, and that could not be suitably mitigated at reserved matters stage. Therefore, the presumption in favour of development must apply in this case and consequently, the application is recommended for approval.

### **7. Recommendation:**

- 7.1 **Approve** subject to the signing and completion of the Unilateral Undertaking and the following conditions:

## Conditions

1. The Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

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

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

Application Form, Planning Statement, Site location plan, Proposed site plan, Proposed elevations and site layout

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

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

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

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

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

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

Reason: In the interests of amenity and public safety.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order), no development shall be carried out within Class A, AA, B, and E of Part 1 of Schedule 2 of that Order or within Class A of Part 2 of Schedule 2.

Reason: In the interest of safeguarding the appearance of the development and the character of the surrounding area and residential amenities.

6. The development hereby approved shall not be occupied until the parking bays shown on the proposed layout plan have been provided and are available for use for both the proposed dwelling and the host property.

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

7. Prior to the commencement of the development hereby approved, arrangements for the management of any and all demolition and construction works shall be submitted to and approved by the Local Planning Authority. The management arrangements to be submitted shall include (but not necessarily be limited to) the following:
- The days of the week and hours of the day when the construction works will be limited to and measured to ensure these are adhered to;
  - Procedures for managing all traffic movements associated with the construction works including (but not limited to) the delivery of building materials to the site (including the times of the day when those deliveries will be permitted to take place and how/where materials will be offloaded into the site) and for the management of all other construction related traffic and measures to ensure these are adhered to;
  - Procedures for notifying neighbouring properties as to the ongoing timetabling of works, the nature of the works and likely their duration, with particular reference to any such works which may give rise to noise and disturbance and any other regular liaison or information dissemination; and
  - The specific arrangements for the parking of contractor's vehicles within or around the site during construction and any external storage of materials or plant throughout the construction phase.
  - The controls on noise and dust arising from the site with reference to current guidance.

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

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

8. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification which has been submitted to and approved by the Local Planning Authority. The works undertaken thereafter shall be in strict accordance with the details approved.

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

**Informatives:**

1. To avoid undue disturbance to neighbours, during the demolition and construction phase, the hours of working (including deliveries) shall be restricted to Monday to Friday 07:30 hours - 18:30 hours. On Saturday 08:00 to 13:00 hours, with no work on Sundays or Public Holidays.
2. Although it would not be possible at this stage under Environmental Health legislation to prohibit the disposal of waste by incineration, the use of bonfires could lead to justified complaints from local residents. The disposal of demolition waste by incineration is also contrary to Waste Management Legislation. The applicant is therefore advised to prohibit fires on site during the development stage of this project.

3. **Bin provision & service**

The Council operates an alternate weekly collection service for refuse and recycling, and a weekly food waste collection. Refuse and recycling is collected in separate 240 litre wheeled bins, paper and cardboard is collected in a separate 55 litre box, and food waste is collected in a 23L free standing container. There is a paid subscription service for garden waste collection using a 240-litre bin.

All individual properties must be able to accommodate up to 3 x 240 litre wheeled bins, 1 x 55 litre box & 1 x 23L food bin.

Bins & boxes are provided by the Council, and all repairs/replacements, subject to normal wear and tear. Bins damaged by the user may be recharged to the managing agent or householder. (For dimensions see below)

**Presentation of bins/boxes**

Although advice in accordance with the Local Plan states 'no carry distance to exceed 25m from either the bin store or house to the refuse vehicle' it is emphasised that consideration should always be given to a shorter distance. Bins/boxes must be stored within the boundary of the property and placed at the nearest point to the public highway by 7am on collection day and returned to the storage point on the property by the end of the day.

**Container dimensions**

- a. Standard Wheeled Bin (240 litre) dimensions: 1070mm H x 580mm W x 740mm D
  - b. Small Wheeled Bin (140 litre) dimensions: 1070mm H x 480mm W x 555mm D
  - c. Large Wheeled Bin (360 litre) dimensions: 1100 H x 620mm W x 860mm D
  - d. Eurobin (communal) (1100 litre) dimensions: 1470mm H x 1360 W x 1080mm D
  - e. Standard Box (55 litre) dimensions: 500mm H x 600mm W x 450mm D
- Standard Food waste bin/individual properties (23 litre)

4. Under paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 (as amended) every planning permission granted for the development of land in England is deemed to have been granted subject to the condition “(the biodiversity gain condition”) that development may not begin unless:

- a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- b) the planning authority has approved the plan.

This permission will require the submission and approval of a Biodiversity Gain Plan before development is begun.

For guidance on the contents of the Biodiversity Gain Plan that must be submitted and agreed by the Council prior to the commencement of the consented development please see the Government Website: Submit a biodiversity gain plan ([www.gov.uk](http://www.gov.uk))

5. The applicant is advised that all habitable first floor windows would be best located to the front and south western side elevations to avoid overlooking, based on the indicative siting shown.
6. The granting of planning permission confers no other permission or consent on the applicant. It is therefore important to advise the applicant that no works can be undertaken on a Public Right of Way without the express consent of the Highways Authority. In cases of doubt the applicant should be advised to contact this office before commencing any works that may affect the Public Right of Way. Should any temporary closures be required to ensure public safety then this office will deal on the basis that:
- The applicant pays for the administration costs.
  - The duration of the closure is kept to a minimum.
  - Alternative routes will be provided for the duration of the closure.
  - A minimum of six weeks notice is required to process any applications for temporary closures.

This means that the Public Right of Way must not be stopped up, diverted, obstructed (this includes any building materials or waste generated during any of the construction phases) or the surface disturbed. There must be no encroachment on the current width, at any time now or in future and no furniture or fixtures may be erected on or across Public Rights of Way without consent.

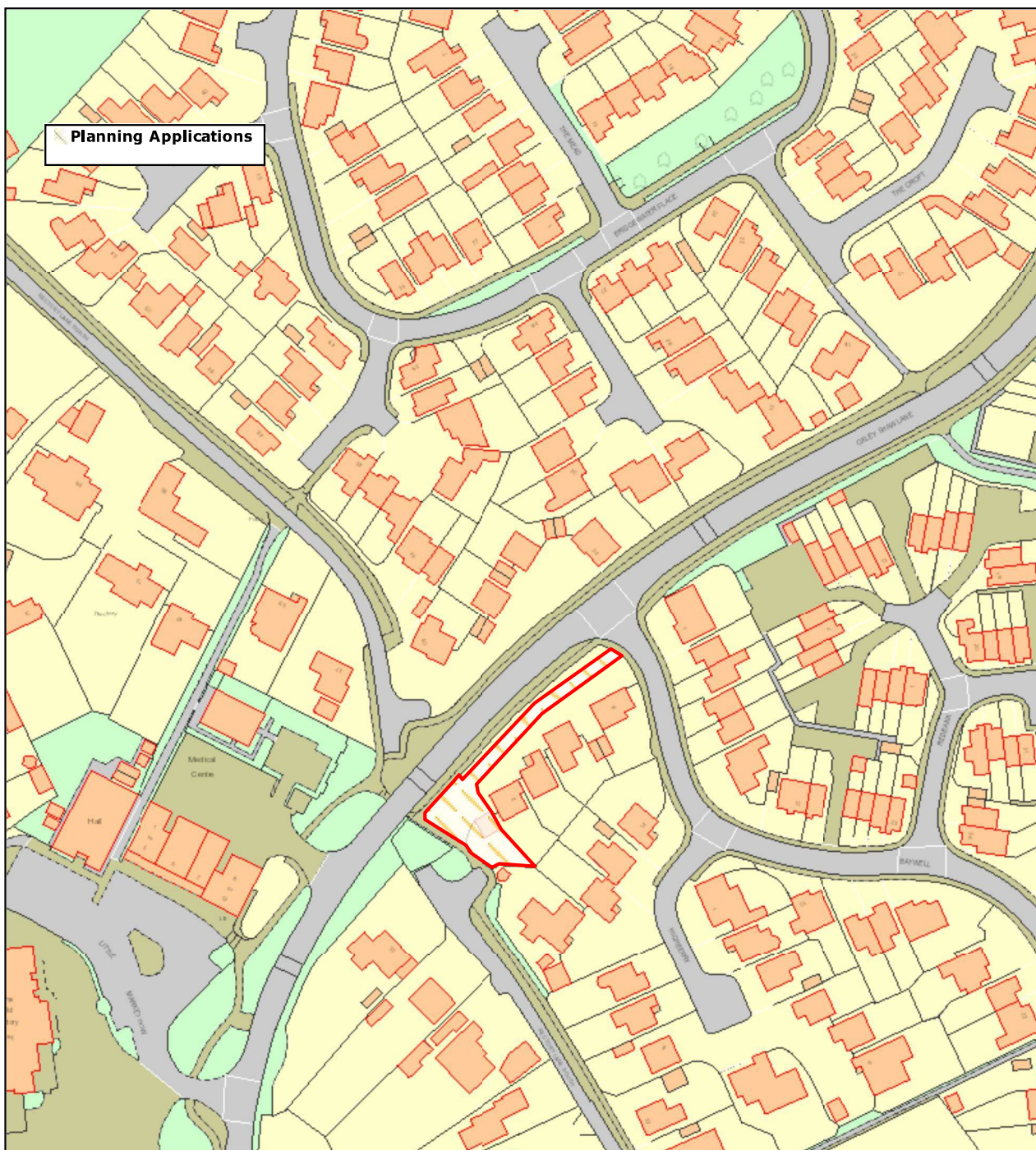
7. The granting of planning permission confers no other permission or consent on the applicant. It is therefore important to advise the applicant that no works can be undertaken on a Public Right of Way without the express consent of the Highways Authority. In cases of doubt the applicant should be advised to contact Kent County Council Public Rights of Way and Access Service before commencing any work on site as the Public Right of Way needs to be diverted.
8. The proposed development is within a road which has a formal street numbering scheme and it will be necessary for the Council to allocate postal address(es) to the

new property/ies. To discuss the arrangements, you are invited to e-mail to [addresses@tmhc.gov.uk](mailto:addresses@tmhc.gov.uk). To avoid difficulties for first occupiers, you are advised to do this as soon as possible and, in any event, not less than one month before the new properties are ready for occupation.

9. This permission does not purport to convey any legal right to undertake works or development on land outside the ownership of the applicant without the consent of the relevant landowners.
10. The granting of this permission does not purport to convey any legal right to block or impede any private right of way which may cross the application site without any consent which may be required from the beneficiaries of that right of way.

Contact: Phillip Richards





**Planning Applications 24/01969/PA**

**Scale: 1:1250**



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



Date: 24/7/2025 14:29

©Crown Copyright and database rights 2022 Ordnance Survey  
100014703.

This page is intentionally left blank

### Area 2 Planning Committee

### Planning Appeal Decisions for Area 2

TMBC Ref	23/03168
PINS Ref	APP/H2265/W/24/3349987
Site Address	The Paddock Rochester Road Burham ME1 3SQ
Description of development	Change of use of land to use as a residential caravan site for one Gypsy family with two caravans, including no more than one static caravan/mobile home, together with laying of hardstanding and erection of ancillary amenity building (Retrospective works)
Delegated or Committee Decision	Delegated Decision
Appeal Outcome	Split Appeal Decision The appeal is dismissed insofar as it related to the erection of ancillary amenity building. The appeal is allowed insofar as it related to the change of use of land to use as a residential caravan site for one Gypsy family with two caravans, including no more than one static caravan/mobile home together with laying of hardstanding at Kooland. Note this permission is for a temporary three year period only.
<i>Insert hyperlink to decision</i>	<a href="#">Appeal Decision</a>
Costs Awarded	Not Applicable

This page is intentionally left blank

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**

This page is intentionally left blank