



TONBRIDGE & MALLING BOROUGH COUNCIL

EXECUTIVE SERVICES

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

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

25 November 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, 3rd December, 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 - 12

To confirm as a correct record the Minutes of the meeting of Area 2 Planning Committee held on 17 September 2025.

5. Glossary and Supplementary Matters 13 - 20

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

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

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

6. TM/25/00944/PA - Land Opposite The Paddocks, Birling Road, Leybourne 21 - 54

Permanent use of site for four Gypsy Traveller families, to include four static caravans, four touring caravans, four Utility blocks, parking for 8 cars, water treatment plant, and associated hardstanding.

7. TM/25/00656/PA - Grove Farm, Maidstone Road, Hadlow 55 - 100

Redevelopment of student accommodation to provide 17 new homes.

Matters for Information

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

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

9. Urgent Items

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

Matters for consideration in Private

10. Exclusion of Press and Public

103 - 104

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

PART 2 - PRIVATE

11. Urgent Items

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

MEMBERSHIP

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

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

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

GUIDANCE ON HOW MEETINGS WILL BE CONDUCTED

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

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

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

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

Ground Rules:

The meeting will operate under the following ground rules:

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

For those Members participating online:

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

Voting:

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

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

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TONBRIDGE AND MALLING BOROUGH COUNCIL

AREA 2 PLANNING COMMITTEE

MINUTES

Wednesday, 17th September, 2025

Present: 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 S A Hudson, Cllr R V Roud, Cllr K B Tanner, Cllr Mrs M Tatton and Cllr M Taylor

Apologies for absence were received from Councillors M A Coffin, S Crisp, Mrs T Dean, D Harman and J R S Lark

PART 1 - PUBLIC

AP2 25/45 DECLARATIONS OF INTEREST

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

AP2 25/46 MINUTES

RESOLVED: That the Minutes of the meeting of the Area 2 Planning Committee held on 6 August 2025 be approved as a correct record and signed by the Chairman.

AP2 25/47 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 25/48 TM/24/01632/PA - 2 KEEPERS COTTAGE, SWANTON VALLEY LANE, WEST PECKHAM

Proposed demolition of existing garage/workshop/store and replace with new.

The application sought permission to demolish the existing outbuildings and the erection of a replacement single building to provide garaging and workshop/storage in association with the existing residential dwelling.

Due regard was given to the determining issues, conditions, reasons and informatives as detailed in the report of the Director of Planning, Housing and Environmental Health. Whilst the principle of development was supported, concern was expressed about the height of the roof of the proposed new building. It was also clarified that Condition 3 would restrict the use of the new building to purposes incidental to the enjoyment of the dwelling house and prohibit use as a separate residential unit.

Cllr Taylor proposed, Cllr Roud seconded and following a formal vote it was

RESOLVED: That the Area Planning Committee were minded to approve the application in accordance with the submitted details, conditions, reasons and informatives set out in the report of the Director of Planning, Housing and Environmental Health, subject to:

- (1) an amendment to condition 5;

No development, other than the demolition of any buildings, removal of hardstanding, ground investigations or site survey works, shall take place until details 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: In the interests of visual amenity.

- (2) further negotiations in respect of the design and pitch of the roof; and
- (3) the final decision being delegated to the Director of Planning, Housing and Environmental Health if the negotiations were successful.

[Speaker: Mark Woodhams, Platt Parish Council]

AP2 25/49 TM/25/01173/PA - LAND AT JUNCTION OF MEREWORTH ROAD AND SEVEN MILE LANE, MEREWORTH

Advertisement Consent (Retrospective): For 1 x post mounted advertising board

The applicant sought retrospective consent for the erection of a post-mounted advertisement board.

Due regard was given to the determining issues, conditions, reasons and informatives as detailed in the report of the Director of Planning, Housing and Environmental Health. The views of the public speakers were also taken into consideration.

The minimal visual impact of the sign on the Green Belt and the lack of objection from the Highway Authority was noted and the importance of supporting rural businesses was recognised.

Cllr Palmer proposed, Cllr Boughton seconded and the Committee

RESOLVED: That retrospective consent for signage 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, subject to:

- (1) the addition of Condition 8:

The signage hereby approved shall be non-illuminated at all times throughout the lifetime of this consent.

Reason: In the interests of highway safety and the visual amenities of the area.

(Speakers: Mr A Hall, Member of the Public and Mr R Cooper, agent)

AP2 25/50 PLANNING APPEALS, PUBLIC INQUIRIES AND HEARINGS

It was noted that there had been no planning appeals, public inquiries or hearings since the last meeting of the Planning Committee.

AP2 25/51 EXCLUSION OF PRESS AND PUBLIC

There were no items considered in private.

The meeting ended at 8.33 pm

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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)

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Leybourne
Birling Leybourne And
Ryarsh

03 DECEMBER 2025

TM/25/00944/PA

Location: Land Opposite The Paddocks, Birling Road, Leybourne.

Proposal: Permanent use of site for four Gypsy Traveller families, to include four static caravans, four touring caravans, four Utility blocks, parking for 8 cars, water treatment plant, and associated hardstanding

Go to: [Recommendation](#)

1. Description of Proposal:

- 1.1 Temporary planning permission was granted on appeal (APP/H2265/C/21/3280661) for the material change of use of the land to use for the stationing of caravans for residential purposes together with associated development including the stationing of mobile washroom and toilet facilities, construction of a septic tank, construction of hard surfaces, and the erection of fences and gates.
- 1.2 The five year temporary permission was granted on 7 December 2022 subject to conditions (expires 6 December 2027).
- 1.3 This application seeks permanent use of the site for four Gypsy Traveller families, (four pitches in total) to include four static caravans, four touring caravans, four utility blocks, together with the parking for 8 cars, a water treatment plant, all within the existing hardstanding compound.

2. Reason for reporting to Committee:

- 2.1 The application is presented to committee at the request of Councillor Banks on the grounds that calling the site 'Grey Belt' based on the previous temporary approval appears highly dubious. Prior to the temporary approval this site was a padlock within the Green Belt.
- 2.2 It is also believed that there is such wide public interest, particularly from neighbouring residents they should have the opportunity to express their views.

3. The Site:

- 3.1 The application sites comprise an L shaped plot of land, approximately 32 metres in width (at its longest width) and 21.5 metres in width (at its shortest width) x 75.5 metres in length. The site lies on the eastern side of the Birling Road and comprises a temporary gypsy/traveller site. The site is reasonably well screened and is not readily visible within the street scene.

- 3.2 Public Bridleway MR130A runs along, but not adjacent to, the north-eastern side of the site, with the A228 a short distance further to the east of the site. The site lies within the open countryside and is designated as Metropolitan Green Belt.

4. Planning History (relevant):

24/00366/PA - Application Withdrawn - 18 June 2025

S73 Application for variation of conditions 3 and 4 submitted pursuant to Appeal ref APP/H2265/C/21/3280661 to allow for the siting of an additional 2 static caravans and 2 utility rooms within existing pitches.

23/00423/RD - Approved - 07 June 2023

Details of condition 4 submitted pursuant to allowed appeal ref.

APP/H2265/C/21/3280661 (21/00034/ENFNOT) to enforcement notice Enforcement 21/00225/USEH

21/00225/USEH (EN) / APP/H2265/C/21/3280661 - Appeal Allowed December 2022

Material change of use of the Land to use for the stationing of caravans for residential purposes and associated development including the stationing of mobile washroom and toilet facilities, construction of a septic tank, construction of hard surfaces, and the erection of fences and gates - Granted on a temporary basis for 5 years.

22/00708/FL - Declines To Determine - 13 June 2022

Change of use of land to residential for members of the Gypsy Traveller community. The site to contain two static caravans, five touring caravans, parking, hardstanding, and associated infrastructure. This application is part retrospective.

5. Consultees:

- 5.1 Whilst some comments have been summarised for the purpose of this report, all statutory and third-party comments have been reviewed in full. Moreover, comments may not have been specifically referred to within the assessment, but all planning related/relevant comments have been taken into account prior to the preparation of the committee report.
- 5.2 **Leybourne Parish Council:** Leybourne Parish Council wishes to register its strong objection to planning application TM/25/00944 on the grounds that the recommendation to approve places a significant weighting on the flawed assumption that the land be designated as 'Grey Belt' under the new provisions of the National Planning Policy Framework (NPPF, December 2024). Despite the recent revisions, the site continues to meet key Green Belt purposes and should not be reclassified.

1. The Site Still Strongly Contributes to Green Belt Purposes. Paragraph 7.22 of the report suggests that the site does not 'strongly' contribute to three Green Belt

purposes: preventing urban sprawl, preventing town mergers, and preserving historic town settings (NPPF Paragraph 143). However, this analysis is flawed for the following reasons:

Prevention of Sprawl (Purpose a): The site's Green Belt designation exists to maintain the clear separation of urban and rural land. Allowing development, even under the label of 'grey belt', creates a precedent for incremental urbanisation, which could ultimately lead to sprawl over time.

Prevention of Town Mergers (Purpose b): While the site may not immediately lead to the merging of two large settlements, its erosion as Green Belt weakens the overall strategic protection of neighbouring areas, making future encroachments more likely.

Encroachment on the Countryside (Purpose c, omitted from grey belt analysis): Although the report argues that this purpose is not relevant to grey belt assessment, it remains a fundamental Green Belt purpose (Paragraph 143). The site currently serves as a natural buffer, maintaining the character of the surrounding landscape. Reclassifying it to grey belt undermines its function and creates an unnecessary loophole for further development.

The mere fact that the site does not meet all Green Belt purposes to an extreme degree does not justify its reclassification. If this reasoning were widely applied, much of the Green Belt could be gradually undermined by piecemeal development.

2. Grey Belt Should Not Apply to Land That Has Never Been Previously Developed
The definition of **grey belt in Annex 2** of the NPPF includes "previously developed land" or land that does not strongly serve Green Belt purposes. However: The site is not previously developed land (PDL). This alone should be a decisive factor in preventing its designation as grey belt.

The site has not been subject to long-term degradation or urban characterisation that might warrant an alternative classification. Unlike brownfield sites or degraded land that might naturally transition to grey belt, this land continues to function as open countryside.

3. Temporary Development Does Not Justify Reclassification. The argument that previous temporary use for a traveller site somehow alters the land's Green Belt status is misleading. Temporary permissions are explicitly designed to be reversible and should not be used as a basis for reclassification. If this were allowed, temporary approvals would become a mechanism to erode the Green Belt incrementally, ultimately creating an unofficial reclassification process outside of the formal Local Plan review.

4. Need for Traveller Sites Does Not Override Green Belt Protections. Paragraph 7.24 acknowledges that there is an unmet need for traveller sites, but need alone does not justify Green Belt development. The Planning Policy for Traveller Sites

(PPTS) states that Green Belt protection should only be overridden in truly exceptional circumstances, which have not been demonstrated in this case. Furthermore, Paragraph 157 of the NPPF states that grey belt designation should not fundamentally undermine the remaining Green Belt, yet this proposal weakens it by setting a precedent.

5. The Site's Classification Should Be Based on Planning Policy. Not Convenience

The report (Paragraph 7.28) argues that the December 2024 NPPF revision means the site is no longer inappropriate development because it qualifies as grey belt. However:

- The classification of land should be based on its inherent qualities and role in the Green Belt, not on whether the current policy environment makes it easier to develop.
- Accepting a grey belt designation in this case would set a precedent for councils to selectively reclassify Green Belt land when faced with short-term housing needs, weakening protections for the future.

6. Retrospective Nature of Development. Significant works had been undertaken on this site prior to the temporary approval, including installation of hardstanding, buildings, utilities, and site clearance. These actions contravene proper planning procedure and reflect an intentional disregard for compliance. The applicant has previously pleaded guilty to breaching a Temporary Stop Notice, undermining confidence in future site management and compliance.

7. Lack of Ecological Assessment. Despite repeated requests from the Parish Council, no Preliminary Ecological Appraisal (PEA) has been conducted. This omission is significant given:

- The site's proximity to Ancient Woodland and TPO-designated trees.
- The inspector previously noted this deficiency when refusing permanent use under Ground A of the appeal.

Without robust ecological evidence, the long-term impact of this proposal on biodiversity remains unknown and unaddressed.

8. Planning Inspectors Temporary Application Recognition. The Planning Inspectors decision to grant only temporary permission was based on several key concerns that weighed heavily against a permanent approval:

- The development caused harm to the Green Belt, reducing openness and resulting in countryside encroachment. This was given substantial weight.
- The site was established as an intentional unauthorised development, which undermined the planning process and prevented proper ecological assessment.

- No ecological survey was carried out prior to development, breaching biodiversity protections in local planning policy.
- Despite acknowledging unmet need for traveller sites and the personal circumstances of the occupants, the Inspector concluded these did not justify permanent harm.
- A five-year temporary permission was granted to enable continuity for the families while allowing time for the local plan process to identify suitable sites, thus avoiding irreversible loss of Green Belt character.

5.3 West Malling Parish Council: objects to the application for the following reasons:

The site is situated within designated Green Belt and serves the following purposes as per para 143 of the NPPF:

- (a) to check the unrestricted sprawl of large built-up areas;
- (b) to prevent neighbouring towns merging into one another;
- (c) to assist in safeguarding the countryside from encroachment;

The Council also notes the concerns of the Planning Inspector when granting only temporary permission, including the lack of an ecological survey; it is noted that a survey has still not been undertaken.

West Malling Parish Council support the comments of Leybourne Parish Council as set out in their letter dated 14th July.

5.4 Kings Hill Parish Council: have reviewed the application and the associated context, including the objection submitted by Leybourne Parish Council, and we share their concerns. As a neighbouring parish, we believe this development would have a direct and detrimental impact on the wider Malling area, including Kings Hill residents.

Our objection is based on the following grounds:

1. Planning Policy and Precedent Concerns. The application appears to rely on the recently introduced and still evolving "grey belt" designation to justify permanent development on land that has not previously been allocated for such use. Approving this application could set a concerning precedent, where temporary or unauthorised land use is later legitimised through reinterpretation of planning policy. This risks undermining the integrity of the planning system and could open the door to similar applications across Kent and beyond, particularly in areas where green or grey belt protections are intended to manage sustainable development.

2. Impact on Green Belt and Local Character. While the grey belt policy aims to identify land within the green belt that may be suitable for development, it still

requires that such development does not undermine the overall purposes of the green belt. In this case, the proposed site lies in a sensitive location between West Malling and Leybourne, and its development would contribute to urban sprawl, contrary to the aims of both green and grey belt policy as outlined in the revised National Planning Policy Framework

3. Cumulative Impact on Local Infrastructure and Planning Balance. Kings Hill and the surrounding areas are already experiencing significant pressure from ongoing and proposed developments. Introducing a permanent site in this location would place additional strain on local infrastructure, including roads, healthcare, education, and public services. Furthermore, the cumulative effect of such development's risks undermining the careful balance of planning decisions in the area, potentially leading to uncoordinated growth that does not align with the long-term strategic vision for Tonbridge and Malling.

4. Lack of Transparency and Community Engagement. The application appears to lack sufficient community consultation and does not adequately address the concerns of neighbouring parishes. We believe that a more collaborative and transparent approach is necessary when considering developments of this nature, especially those that may have long-term implications for planning policy and land use.

5.5 **Environmental Health Protection:** Contaminated land - No comments.

Informative's suggested.

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. I would thus recommend that bonfires not be had at the site

5.6 **Waste Services:** Standard response on bin sizes etc.

5.7 **Southern Water Services:** The development site is not located within Southern Water's statutory area for water supply services.

5.8 **South East Water:** No response received.

5.9 **Environment Agency:** Thank you for consulting us. Due to the scale, nature and setting of this proposal and the supporting information submitted, we have

assessed this proposal as low risk. We therefore do not have any specific comments to add.

- 5.10 **Kent Highway Services:** It would appear that this development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements. If there are any material highway safety concerns that you consider should be brought to the attention of the HA, then please contact us again with your specific concerns for our consideration.
- 5.11 **Housing Services:** As planning consent has already been granted temporarily for use of the land above as a residential caravan site the site owner is required under the Caravan Sites and Control of Development Act 1960 (as amended by the Mobile Homes Act 2013) to apply for a caravan site licence this is also the case if consent is given for 25/00944/PA. The caravan site licence will have conditions attached that are there to protect the health and safety of the occupants and any visitors to the site. If the site is not occupied by the site owner and family members; or the site is to be run on a commercial basis the site owner will also be required to apply to go on the caravan site licensing 'Fit and Proper Person' register.
- 5.12 **Interested Parties:** Personal comments about the applicants that are not a material planning consideration have not been included in the summary of comments from interested parties. Comments have been summarised under relevant categories but as already stated above all comments have been reviewed in full.

Green Belt

- The site is located within an area designated as green belt, which serves to prevent urban sprawl and protect the countryside. Allowing permanent development in this area undermines the purpose of green belt land and sets a concerning precedent for future applications that may further encroach on these vital spaces.
- Paragraph 26 of the PPTS states that "Local planning authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan." This site is clearly located in open countryside, not identified within any settlement boundary, and not allocated for development in the Council's current or emerging Local Plan. As such, the proposal fails to comply with this key national policy, designed to protect the countryside from inappropriate and unsustainable development.
- This proposal, which involves multiple permanent structures, hardstanding, and regular vehicle movements, would cause unacceptable visual intrusion into a rural landscape and represents urbanisation of greenfield land—in direct contradiction to these local policies.

- Four static caravans, hard standing and service blocks would impose a permanent urban form that is highly visible from Birling Road and public paths, cutting both spatial and visual openness.
- Paragraph 25 of the Planning Policy for Traveller Sites allows only temporary permissions where a five-year pitch supply is absent and it expressly excludes Green Belt land. Need therefore carries limited weight.
- TMBC previously asserted that this land constitutes grey belt, but this is demonstrably incorrect. The Planning Inspectorate's decision was unequivocal: the land should be restored to its undeveloped status, as it existed prior to the unauthorised occupation, which was in breach of planning regulations. The site remains Green Belt and must be treated as such under planning policy.
- The Green Belt Guidance updated 27 February 2025 states: In order to identify grey belt land, authorities should produce a Green Belt assessment, either as part of the review of Green Belt boundaries during the preparation or updating of a local plan. Where grey belt is identified, it does NOT automatically follow that it should be allocated for development, released from the Green Belt or for development proposals to be approved in all circumstances. As no formal assessment has been undertaken by TMBC, I contend that any designation of 'grey belt' in this case is premature and without sufficient context or precedent.
- The mere fact that the site does not meet all Green Belt purposes to an extreme degree does not justify its reclassification. If this reasoning were widely applied, much of the Green Belt could be gradually undermined by piecemeal development.

Ancient Woodland

- The land in question lies directly adjacent to a protected Ancient Woodland and between this and an Area of Outstanding Natural Beauty (AONB). The latest application is both vexatious and undermines the integrity of the planning process, as well as the Planning Inspectorate's (PINS) previous decision.
- The land is Green belt and should remain as such before the adjacent Ancient Woodland is spoilt.
- Destruction of Woodland: The site was created by demolishing an area of established woodland, which is deeply concerning given the loss of natural habitat and negative environmental impact. This destruction is not in keeping with local conservation priorities and should not be legitimised by granting permanent permission.
- Grey belt is a relatively new policy consideration having been introduced in the 2024 version of the NPPF, with guidance published In the Spring of 2025. Appeal decisions are starting to be made that aids interpretation, but currently

there is not a wide body of evidence to draw upon. The Committee should consider carefully the implications of establish/ing grey belt precedents and planning strategy for traveller accommodation in this case and in advance of the Borough Council concluding its Local Plan work.

Ecology/wildlife

- The proposed development could negatively impact local wildlife and ecosystems.
- Green belts play a critical role in conserving biodiversity, protecting ecosystems, and maintaining natural habitats. Downgrading these areas can lead to habitat loss
- No Preliminary Ecological Appraisal has been supplied even though the plot borders ancient woodland and trees protected by preservation orders. This conflicts with National Planning Policy Framework paragraph 180 and Local Plan policy NE2.

Infrastructure

- The introduction of permanent residential facilities for multiple families will place additional demands on local infrastructure, including roads, utilities, and public services.
- A further development will only add to exasperate the currently over stretched Health and Education services in the area

Neighbour Amenity

- The intensity of use proposed on this site, combined with its location, is likely to cause disturbance to neighbours.
- It will cause light and noise pollution and lead to a loss of amenity
- Residents in Castle Way, Leybourne have had to put up with the noise from the camp that is carried across the field - generators, smoke pollution, light pollution, dogs barking etc
- If this turns into a permanent traveller site, then all those on the Leybourne Chase estate will be affected.
- An extension of the existing site will mean a loss of use of the woods.

Traffic/Access

- Increased traffic congestion
- Birling Road is a narrow country road

- The application proposes parking for 8 vehicles, representing a considerable increase in traffic in and out of the site. The local access roads are likely not designed for this volume or type of use, particularly involving towing caravans. This may raise serious highway safety concerns, especially for local residents, pedestrians, and cyclists.
- There is no evidence of a full transport or traffic impact assessment, and the proposed layout does not appear to address visibility splays, vehicle turning, or pedestrian safety—contrary to the guidance in NPPF Paragraphs 110–112.

General Comments

- This is a thin end of the wedge that the occupying people have to exploited,
- Object to the way this application has come about, ignoring planning rules in the first instance.
- Tonbridge and Malling Council do not need to provide housing as described in the planning application.
- TMBC should not be in the habit of approving development once it has already started
- The Council is currently in the process of preparing a new Local Plan, with a Gypsy and Traveller Accommodation Assessment (GTAA) and Call for Sites process underway. This application pre-empts that plan-led process and proposes an unallocated development in the absence of robust, up-to-date need data. Approving this application would undermine the integrity of the Local Plan process, which is meant to identify suitable sites in a sustainable and strategic way.
- Travellers sites do not belong on green belt land along with other permanent structures / housing etc, and brown field or grey belt land should be only be considered.
- The local council is currently preparing a new local plan that includes a Gypsy and Traveller Accommodation Assessment (GTAA) and Call for Sites process, where suitable sites will be identified in a strategic and sustainable way. This process should be allowed to conclude and the absence of a current plan whilst it is in development should not be a reason for allowing potentially inappropriate sites (such as this application).
- Birling Road lacks pavements and lighting, so occupants would rely on private vehicles. That conflicts with National Planning Policy Framework paragraphs 110 to 112 and Core Strategy policy CP2 which promote sustainable travel.

- The submission offers no evidence that the proposed package treatment plant or surface-water scheme meets National Planning Policy Framework paragraph 174 or emerging policy CC1 on flood risk.
- The original application was refused by Tonbridge and Malling Borough Council (TMBC), but permission was subsequently granted on appeal by PINS as a temporary approval limited strictly to five years to allow for continuity in children's education. The current application goes beyond the scope and spirit of that temporary consent.
- The applicants are not from the Tonbridge and Malling Borough, and as such, there is no obligation on the council to provide permanent accommodation for them in this area.

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 in force for this area comprises the Tonbridge and Malling Local Development Framework Core Strategy (TMBCS) adopted in September 2007, the saved policies of the Tonbridge and Malling Borough Local Plan 1998 (TMBLP), Development Land Allocations DPD (DLA DPD) adopted in April 2008 and the Managing Development and the Environment DPD (MDE DPD) adopted April 2010.
- 6.3 The National Planning Policy Framework ("NPPF 2024") the associated National Planning Practice Guidance ("PPG") and National Design Guide are important material considerations.
- 6.4 In addition, Planning Policy for Traveller Sites (PPTS) (December 2024), TMBC Gypsy and Traveller and Travelling Show-person Accommodation Assessment (July 2022) and TMBC Gypsies, Travellers and Travelling Show-people Position Statement (December 2024) are also material considerations in this case.

Emerging Local Plan

- 6.5 On the 21 October 2025 the Housing and Planning Scrutiny Select Committee, recommended to the Council's cabinet that the next stage of the emerging draft Local Plan is moved forward, paving the way for the formal public consultation which commenced on 10 November 2025.
- 6.6 The emerging Local Plan sets out how the Council will meet the government's objectively assessed housing need requirement to deliver 19,746 new homes, 1097

per year. In addition, the emerging Local Plan (Emerging Policy SP4) also identifies the Council will need to provide an additional provision of 33 pitches for Gypsies and Travellers in accordance with the needs identified in the Gypsy and Traveller and Travelling Show-person Accommodation Assessment 2025 (GTAA).

- 6.7 The GTAA 2025 report identifies that there is potential to meet part of this need (18 pitches) by the regularisation of existing pitches on sites that are not permanently authorised, i.e those site that are lawful with temporary permission. The site falls within this category as currently the site has a temporary 5 year permission for 4 pitches.
- 6.8 Whilst the emerging Local Plan is at Regulation 18 stage and therefore carries limited weight, the evidence base in preparation for the emerging Local Plan and in this case the GTAA 2025 report is a material consideration in the determination of the application. The GTAA report provides clear evidence that there is a need for permanent Gypsy Traveller pitches within the Borough.

Gypsy Traveller Status

- 6.9 The application relates to an existing gypsy/traveller site albeit granted on a temporary basis. The definition of Gypsies and Travellers is set out in Annexe 1 PPTS (December 2024) as follows:

“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily or permanently, and all other persons with a cultural tradition of nomadism or of living in a caravan, but excluding members of an organised group of travelling show-people or circus people travelling together as such”.

- 6.10 The application is accompanied by personal information that Officers have reviewed, this information confirms the gypsy traveller status of the applicants and their dependents.

Principle of Development

- 6.11 As Members are aware, the Council cannot currently demonstrate an up-to-date five-year supply of housing when measured against its objectively assessed need (OAN).
- 6.12 In addition, as set out in TMBC Gypsies, Travellers and Travelling Show-people Position Statement (December 2024) the Council cannot demonstrate a 5 year supply of Gypsy and Traveller sites.
- 6.13 Furthermore as already stated above the GTAA 2025 report provides clear evidence that there is a need for 33 permanent Gypsy Traveller pitches within the Borough.

6.14 The provision of static units (Caravans) in this case, constitutes housing development. As a consequence, the presumption in favour of sustainable development as set out at paragraph 11 of the NPPF (2024) must be considered. For decision taking, in this case, 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.

6.15 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, including land within the Green Belt, in which the application site lies. 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.

Green Belt.

6.16 As noted above 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. Paragraphs 153 – 160 of the NPPF relate specifically to the determination of proposals that affect the Green Belt.

6.17 Paragraph 153 of the NPPF requires local planning authorities, when considering applications, to ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

6.18 Paragraph 154 of the NPPF states that development in the Green Belt is inappropriate unless one of the listed exceptions (a to h) applies. In this case, the propose would not fall within any of the exception listed under paragraph 154 NPPF.

6.19 TMBC Core Strategy Policy CP20 includes a presumption against the development of gypsy and traveller accommodation in the Green Belt unless there are very

special circumstances. However, Policy E of the Planning Policy for Traveller Sites (PPTS) considers Traveller sites in the Green Belt to be inappropriate development unless the exceptions set out in the Framework apply. Policy CP20 is therefore inconsistent with national policy, and paragraph 232 of the Framework requires due weight be given to development plan policies according to their degree of consistency with the Framework and PPTS.

6.20 However, as members are aware in December 2024, the then, newly elected Labour Government updated the NPPF which included the introduction of Grey Belt.

6.21 Grey Belt is now a material consideration and an assessment to establish if the site is Grey Belt must be undertaken.

Grey Belt

6.22 Paragraph 155 states that the development of homes, (and caravans in this case, as noted above would relate to homes) commercial and other development in the Green Belt should also not be regarded as inappropriate where:

- a) The development would utilise 'grey belt' land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;
- b) There is a demonstrable unmet need for the type of development proposed;
- c) The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework; and
- d. Where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157.

6.23 Planning Practice Guide (PPG) explains that where Grey Belt land is not identified in an existing Local Plan or Green Belt assessments, it is expected that authorities should consider evidence and the illustrative features that are likely to indicate that a site or area 'strongly' contributes to the relevant Green Belt purposes [Paragraph 009 Reference ID: 64-009-2025022].

6.24 Turning first to criterion a) (para. 155) the NPPF at Annex 2 provides a definition for Grey Belt: this sets out that for the purposes of plan-making and decision-making, 'grey belt' is defined as:

*"Land in the Green Belt comprising previously developed land **and/or** any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in Paragraph 143. 'Grey belt' excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development"* (Officers emphasis added).

- 6.25 Therefore, the Grey Belt definition is clear, that a site does not need to be previously developed land to constitute Grey Belt. Any other land in the Green Belt has potential, under the changes to the NPPF, to constitute Grey Belt land providing policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a 'strong' reason for refusing or restricting development (Officers emphasis added).
- 6.26 The site is not located in any of the other assets referred to in footnote 7. Therefore, the next test is to establish if the parcel of land 'strongly' contributes to the Green Belt under purposes a), b), or d) as set out in Paragraph 143 (NPPF). These are:
- a) To check the unrestricted sprawl of large built-up areas.
 - b) To prevent neighbouring towns merging into one another
 - d) To preserve the setting and special character of historic towns
- 6.27 PPG has recently been updated to reflect the changes to the NPPF and now provides detailed guidance on how to assess Green Belt purposes [Paragraph: 005 Reference ID: 64-005-20250225]. In relation to purpose a) it notes that this purpose relates to the sprawl of large built-up areas. Moreover, PPG is very clear that 'villages' should not be considered large built-up areas.
- 6.28 Leybourne is considered to be a village, as such the proposal would not result in the sprawl of a large built-up area.
- 6.29 Turning next to purpose b) - To prevent neighbouring towns merging into one another, again PPG is clear that this purpose relates to merging of towns and not villages. Therefore, the proposal would not result in neighbouring towns merging into one another.
- 6.30 Lastly purpose d) - To preserve the setting and special character of historic towns. Leybourne is not an historic town and as with purpose a) and b) the PPG states *"This purpose relates to historic towns, not villages. Where there are no historic towns in the Plan area, it may not be necessary to provide detailed assessments against this purpose"*.
- 6.31 Therefore, to conclude on Para 155 criteria a), Officers are of the opinion that the site does not 'strongly' contribute to the 3 purposes of the Green Belt as set out above, as such the site would qualify as 'Grey Belt' land. This is confirmed by PPG which states *"After consideration of the above criteria, any assessment area that is not judged to strongly contribute to any one of purposes a, b, or d can be identified as grey belt land, subject to the exclusion of land where the application of the policies relating to the areas or assets in footnote 7 to the NPPF (other than Green Belt) would provide a strong reason for refusing or restricting development"*. [Paragraph: 007 Reference ID: 64-007-20250225].

- 6.32 Turning next to Criterion b) – There is a demonstrable unmet need for the type of development proposed. The Council cannot demonstrate a five year supply of deliverable Gypsy and Traveller site as confirmed within TMBC Gypsies, Travellers and Travelling Show-people Position Statement December 2024 and the GTAA report 2025. Therefore, there is a demonstrable unmet need for the type of development proposed. For clarity footnote 56 (NPPF) confirms in the case of traveller sites – means the lack of a five year supply of deliverable traveller sites assessed in line with Planning Policy for Traveller sites.
- 6.33 In regard to c), this requires development to be in a sustainable location. Footnote 57 also notes in the case of development involving the provision of traveller sites, particular reference should be made to Planning Policy for Traveller sites paragraph 13. Paragraph 13 (PPTS) notes:
- “Local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally. Local planning authorities should, therefore, ensure that their policies:
- a) promote peaceful and integrated co-existence between the site and the local community;
 - b) promote, in collaboration with commissioners of health services, access to appropriate health services;
 - c) ensure that children can attend school on a regular basis;
 - d) provide a settled base that reduces both the need for long-distance travelling and possible environmental damage caused by unauthorised encampment;
 - e) provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development;
 - f) avoid placing undue pressure on local infrastructure and services;
 - g) do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans; and
 - h) reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability”.
- 6.34 In this regard it is noted that the Inspector (appeal decision APP/H2265/C/21/3280661) at paragraph 15, considered the location of the site ‘suited to the development’, specifically stating, *“the site is not in open countryside that is away from existing settlements, and it is of a scale that would not dominate the nearest settled community or place undue pressure on local infrastructure”*. There has been no change to the site circumstances or the area to warrant coming

to a different conclusion. It was also noted in the same paragraph that amongst other things *'the site was reasonably accessible to shops, schools and other community facilities'*, and again there has been no change to the site circumstances or the area to warrant coming to a different conclusion. Therefore, there is no conflict with criterion c).

- 6.35 Criterion d) is not applicable in this case as the proposal does not comprise 'major' development. Major development involves 10 or more dwellings or a site area (for housing) of 0.5 hectares.
- 6.36 Therefore, to conclude on paragraph 155 (NPPF) the site would constitute Grey Belt land and would meet all 'relevant' criteria as set out in paragraph 155 (NPPF) and as such would be regarded as appropriate development.
- 6.37 Where a development is not inappropriate in the Green Belt, as in this case, this does not itself remove the land from the Green Belt nor require development proposals to be approved per se. In accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004, wider policies and considerations apply, including those in the area's adopted Plan, and in the NPPF read as a whole [Paragraph: 010 Reference ID: 64-010-20250225 PPG].
- 6.38 It therefore follows that as appropriate development Paragraph 11 d (ii) is engaged 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 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.

Clarification on matters relating to Green Belt and Grey Belt.

- 6.39 Before moving on to consider the application against other policy requirements, Officers consider it important to address the evidence base for the emerging Local Plan and some of the comments raised by interested parties in relation to Green Belt/Grey Belt.
- 6.40 Turning first to the emerging Local Plan. As part of the evidence base for the emerging Local Plan, a Stage 1 Green Belt Assessment (dated September 2025) has been undertaken, the site falls within a wider parcel, P7 which includes, Leybourne Chase, Medway Gap, Addington, Addington Clearway, Wrotham Heath, Borough Green and Platt. However, the output of this study is intended to assist the Council with its plan making and development of its spatial strategy. The analysis is not intended to be used to identify grey belt land as it is not sufficiently granular to do so, as required by the Green Belt PPG.
- 6.41 Third party comments in regard to the purposes of the Green Belt, reference criterion c) - To assist in safeguarding the Countryside from encroachment. As set

out above the NPPF and PPG is clear that when assessing Grey Belt, consideration in relation to purpose c) is not required or undertaken as part of the Grey Belt assessment. Therefore, Officers when considering Grey Belt are unable to assess the application under purpose c).

- 6.42 Comments have referred to the temporary use stating “*The argument that previous temporary use for a traveller site somehow alters the land’s Green Belt status is misleading. Temporary permissions are explicitly designed to be reversible and should not be used as a basis for reclassification*”. In the assessment of Grey Belt, the temporary use of the site does not come into play. The definition of Grey Belt is clear and includes any other land. The Grey Belt assessment undertaken above has been undertaken on the parcel of land itself and not the temporary use.
- 6.43 Comments have been made relating to the previous appeal decision and that the Planning Inspectorate’s decision was unequivocal stating that the land should be restored to its undeveloped status.
- 6.44 There has been a fundamental change to national planning policy since the appeal decision was granted. This change in national policy is a material consideration. Therefore, officers when assessing the application must give greater weight to the updated NPPF over the previous appeal decision in relation to Green Belt.
- 6.45 Furthermore, whilst paragraph 153 (NPPF) states when considering any planning application. LPA’s should ensure that substantial weight is given to any harm to the Green Belt, including harm to openness, footnote 55 (NPPF) is clear that this weight is not afforded in the case of development on previously developed land or Grey Belt Land where development is not inappropriate.
- 6.46 Comments have been made that “*Approving this application could set a concerning precedent, where temporary or unauthorised land use is later legitimised through reinterpretation of planning policy. Which risks undermining the integrity of the planning system and could open the door to similar applications across Kent and beyond, particularly in areas where green or grey belt protections are intended to manage sustainable development*”. It has also been stated that “*The mere fact that the site does not meet all Green Belt purposes to an extreme degree does not justify its reclassification. If this reasoning were widely applied, much of the Green Belt could be gradually undermined by piecemeal development*”.
- 6.47 Comments have also been made that the assessment of sites which could potentially be considered Grey Belt should be undertaken as part of the Local Plan process. As no formal assessment has been undertaken by TMBC, comments have states that “*it is contended that any designation of ‘grey belt’ in this case is premature and without sufficient context or precedent*”.
- 6.48 Whilst the designation of Green Belt does not change as a result of the introduction of Grey Belt. The introduction of Grey Belt land is a material consideration and

cannot be downplayed or ignored when LPA's are assessing applications for housing regardless of the status of the Council's existing/emerging Local Plan.

- 6.49 As set out in the Grey Belt assessment above, PPG explains that where Grey Belt land is not identified in an existing Local Plan or Green Belt assessments, it is expected that authorities should consider evidence and the illustrative features that are likely to indicate that a site or area 'strongly' contributes to the relevant Green Belt purposes (Paragraph 009 Reference ID: 64-009-2025022).
- 6.50 The Government is clear in its objectives to boost the supply of housing, and the new Grey Belt designation has a role to play in achieving the Government aims. Failure to consider Grey Belt (where appropriate) would leave the Council open to cost in relation to appeals.
- 6.51 Finally, comments have been made in relation to The Planning Policy for Traveller Sites (PPTS) which states that Green Belt protection should only be overridden in truly exceptional circumstances, which third party comments contend has not been demonstrated in this case.
- 6.52 Paragraph 1 of the PPTS states that "*This document sets out the Government's planning policy for traveller sites. It should be read in conjunction with the National Planning Policy Framework*". Therefore, whilst paragraph 16 of the PPTS states "*Inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. Traveller sites (temporary or permanent) in the Green Belt are inappropriate development unless the exceptions set out in Chapter 13 of the National Planning Policy Framework apply*", this document must be read alongside the NPPF and that includes Grey Belt policy and where appropriate as in this case, a Grey Belt assessment must be undertaken.

Very Special Circumstances v Planning Balance Scenario

- 6.53 Whilst Officers are of the opinion that the site constitutes Grey Belt meeting the criteria of Paragraph 155 and therefore would be appropriate development (and moreover as appropriate development, as set out in footnote 55 (NPPF) where development is appropriate harm to the Green Belt is not for consideration). Should Members form a different view and consider the site not Grey Belt and therefore inappropriate development in the Green Belt, the following assessment aims to consider such a scenario but is without prejudice to officers' opinion.
- 6.54 The Framework makes it clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances 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.

Harm to Openness

- 6.55 With regard to openness, the leading court cases of *Turner [2016]* and *Samuel Smith [2020]* and numerous subsequent appeal decisions have confirmed that Green Belt openness has a spatial dimension and a visual dimension. PPG explains that “*Assessing the impact of a proposal on the openness of the Green Belt, where it is relevant to do so, requires a judgement based on the circumstances of the case*”. It also confirms that “*openness is capable of having both spatial and visual aspects, in other words, the visual impact of the proposal may be relevant, as could its volume*” (Paragraph: 013 Reference ID: 64-013-20250225).
- 6.56 Moreover, it must not be forgotten that these dimensions work in tandem and not in isolation, and in context, a synergy that is not always transparent in assessments of effects on openness, which can appear heavily weighted towards the spatial aspect.
- 6.57 Therefore, when assessing whether the development as a whole would/would not cause harm on the openness of the Green Belt, it is necessary to look at the wider implications of the proposal and to consider it within its context. The impact on openness will vary according to factors such as size and scale, and the prominence from public and private viewpoints.
- 6.58 Looking at it solely in a spatial dimension, the proposal would result in a reduction in the spatial aspect of the Green Belt’s openness through providing built form and structures on the site where there would otherwise be open fields. The residential use of the land would also lead to domestic paraphernalia across the site, including parking areas and an increase in activity.
- 6.59 In terms of the visual effects, the proposed structures would be single storey in form with a modest mass and, once in the location shown on the proposed plans, visibility from public viewpoints would be limited given their distance from the highway and from the nearby public footpath. The existing landscaping provides good screening from the wider area and does not require a ‘substantial enclosure’ to mitigate effects on the surrounding open countryside. This is particularly important as the advice in the PPTS states that sites should not be enclosed to such an extent that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.
- 6.60 The fact that the four touring caravans would not permanently be on site would also help to mitigate an impact of the layout.
- 6.61 Therefore, both the fixed infrastructure and the mobile elements have the effect of reducing the openness of the Green Belt, both visually and spatially, while the harm to the openness is reduced due to the single storey form and existing landscaping, the intrusion into formerly undeveloped open land conflicts with one of the purposes of Green Belts, that of assisting in safeguarding the countryside from encroachment.
- 6.62 The harm whilst considered to be modest is still a matter to which significant weight must be given in the planning balance.

Need of Pitches

- 6.63 PPTS requires local planning authorities to make their own assessment of need for the purposes of planning, to set pitch targets for travellers which address the likely needs, and to identify a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets.
- 6.64 It is not disputed that the Council cannot demonstrate a five year supply of deliverable sites and acknowledge that the shortfall in both past delivery and future supply is significant. The Gypsies, Travellers and Travelling Show-people Position Statement December 2024 concludes that there is an overall cultural need for additional Gypsy and Traveller pitches across the borough over the Plan period of 2021/22 to 2039/40.
- 6.65 In addition, as stated previously the GTAA 2025 report identifies the Council will need to provide an additional provision of 33 pitches for Gypsies and Travellers in accordance with the needs identified.
- 6.66 Based on the current position the shortfall amounts to a significant unmet need for pitches. Whilst work is progressing on a new Local Plan, which will seek to address the supply of pitches to meet unmet need, it must be also be acknowledged that the need for pitches exists now and this unmet need has persisted for a number of years. Officers considers this carries significant weight in the planning balance.
- 6.67 Moreover, the GTAA 2025 report identifies that there is potential to meet part of this need (18 pitches) by the regularisation of existing pitches on sites that are not permanently authorised, i.e those site that are lawful with temporary permission. The site falls within this category as currently the site has a temporary 5 year permission for 4 pitches. Officers consider this carries significant weight in the planning balance.
- 6.68 Furthermore, it is also noted that there are no available, affordable alternative sites currently available, and lack of alternative accommodation attracts significant weight in the planning balance.
- 6.69 These factors indicate significant need for gypsy and traveller sites now and in the future, this coupled with a persistent failure of policy and the uncertainty of future means to meet the need, carries significant weight in favour of the development in the planning balance.

Personal circumstances/Equality Act 2010: Equality Impact

- 6.70 The site would be occupied by four families, all of which would meet the definition of Gypsies and Travellers set out in the PPTS. Article 8 imposes a positive obligation to facilitate the gypsy way of life, and, as a minority group, special consideration should be given to their needs and lifestyle. In addition, gypsies share the protected characteristic of race for the purposes of the Public Sector Equality Duty under

Section 149 of the Equality Act 2010, which sets out the requirement to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not.

- 6.71 This duty requires public authorities, including the Council, to have due regard to the need to:
- Eliminate unlawful discrimination, harassment, and victimisation;
 - Advance equality of opportunity between people who share a protected characteristic and those who do not; and
 - Foster good relations between people who share a protected characteristic and those who do not.
- 6.72 In the context of planning, equalities considerations are embedded throughout the planning process. This begins with the formulation and adoption of planning policies at the national, strategic, and local levels, including any supplementary planning guidance. These policies are subject to statutory processes that include assessments of their impacts on protected groups.
- 6.73 For individual development proposals, further consideration is given to the potential equality impacts where relevant. In this case, all relevant policies from the Tonbridge and Malling Development Plan and the National Planning Policy Framework (NPPF) have been considered in the assessment of the application. These policies have been subject to equality impact assessments during their adoption, in accordance with the Equality Act 2010 and prior legislation and the Council's obligations under the PSED.
- 6.74 Accordingly, the adopted planning Framework used in the assessment of this application is considered to reflect and support the needs of individuals with protected characteristics, as defined by the Equality Act 2010 and previous legislation. These characteristics include: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
- 6.75 The existing authorised, albeit temporary site, comprises four pitches, the proposed development would not alter the number of pitches this will remain as four, nor would it increase the number of occupants, but it does seek to increase the number of static and touring caravans on the site, so as to provide 1 static, 1 touring caravan and 1 day unit for each pitch. The four pitches would be occupied by four families which are all related and provided support to each other.
- 6.76 Where Article 8 rights are those of children, as in this case, they must also be seen in the context of Article 3 of the United Nations Convention on the Rights of the Child. This requires a child's best interests to be a primary consideration. In particular, case law identified that, although a primary consideration, the best interests of a child are not a determinative planning issue, but that no consideration

must initially be regarded as more important or, in advance of the subsequent assessment of the individual circumstances, be given greater weight.

- 6.77 A number of the occupants, including children, have significant health issues, and living at the site has been highly beneficial in this respect, allowing access the health care and not least in terms of the positive environment it provides for the children's upbringing. Two of the children attend the local primary school. The school has provided a letter confirming how well these children are doing at the school and how the whole family are valued members of the school community. The school believe that continuing their education with the school, will offer them stability and the opportunity to continue the amazing progress they have already made. Moreover, the school believes that by contrast a change of school will be both detrimental and disruptive for the children and their parents.
- 6.78 The proposal would provide a settled base for the children and their best interests therefore need to be carefully considered. Their best interests would be served by a permanent and secure, culturally appropriate home, allowing their education to continue uninterrupted even more so for those with identified special education needs.
- 6.79 Notwithstanding the significant level of local objection, living at the site has enabled a degree of integration with the local community, in particularly one of the adult occupants, runs two local football teams, one for under 7's and one for 7 to 10 year olds, teams practice 2 a week with matches played at the weekends.
- 6.80 The proposal would facilitate the establishment of a permanent base from which to pursue a nomadic lifestyle. This would allow cultural traditions to be balanced with the practicalities of modern living, thereby advancing equality of opportunity. It would also allow for children to access education as their needs grow. The absence of a five-year supply of pitches also indicates inequality in housing opportunities and the proposal would help to offset this. These are important points in achieving the social sustainability sought by Paragraph 13 of the PPTS.
- 6.81 The proposal would provide an enduring settled permanent base which would enable access to education, healthcare and generally support the children's welfare by, for example, attending clubs, making friends and being close to family. The merits of the case presented are such that the benefits of the proposal to the best interests of the children would attract significant weight in the planning balance.

Planning Balance/conclusion to VSC scenario.

- 6.82 As set out above by definition, inappropriate development is harmful to the Green Belt, and further harm arises through the loss of openness and encroachment on the countryside. This carries significant weight.
- 6.83 The sum of this harm must be balanced against the factors in favour of the proposal. At present, the Council has a significant level of unmet need for traveller

sites, nor is there any alternative site at present. Moreover, the strategy for addressing the need has yet to be developed through the local plan preparation process. This attracts significant weight.

- 6.84 The beneficial aspects of the site for its occupants, particularly so when it comes to the interests of the children in terms of stability and access to healthcare and education, would assist in terms of the duty to advance equality of opportunity for the occupiers who, by virtue of their ethnicity, are at risk of discrimination, harassment, and victimisation. The needs of some of the proposed occupants are less pressing, but the living arrangements, whereby an extended family live together for mutual support, is characteristic of the gypsy way of life, and so the proposal would be consistent with the Government's aim of facilitating the traditional and nomadic way of life of travellers. This also attracts significant weight.
- 6.85 Officers consider that on balance whilst the proposal would result in harm to openness, the benefits arising from the provision of four permanent pitches for Gypsies and Travellers which will assist in meeting the Councils demonstrable unmet need, together with the best interests for the children who would be served by a permanent and secure, culturally appropriate home, allowing their education to continue uninterrupted and also for those with identified special medical needs, would outweigh the harm.

Gypsies/Travellers

- 6.86 Turing back to an assessment under Paragraph 11 d(ii). Although somewhat dated Policy CP20 of the TMBCS specifically relates to Gypsies, Travellers and Travelling Show-people. Part 1 refers to the Gypsy and Traveller Development Plan Document 2008 and the now defunct South East Plan, stating that first consideration will be given to the limited expansion of one or both of the publicly controlled sites in the Borough.
- 6.87 Part 2 sets out specific criteria against which applications for accommodation for gypsies and travellers are to be assessed, this being:
- a) there is an identified need that cannot reasonably be met on an existing or planned site;
 - b) residential or rural amenity is not prejudiced as a result of visual intrusion, excessive noise, lighting, traffic generation or activity at unsocial hours;
 - c) the site respects the scale of, and does not dominate, the nearest settled community;
 - d) the site can adequately be accessed by vehicles towing caravans and there is safe pedestrian and cycle access to the site; and

e) the site is reasonably accessible to shops, schools and other community facilities on foot, by cycle or public transport;

- 6.88 The policy concludes that there will be a presumption against the development of gypsy and traveller accommodation (including sites for travelling show-people) in the Green Belt unless there are very special circumstances. As stated above, this element of the policy no longer accords with the NPPF and Planning Policy for Traveller Sites (PPTS) 2024.
- 6.89 As already acknowledged the Council cannot demonstrate a 5 year supply of housing or pitches for gypsies and travellers so there is a clear identified need and thus the proposal meets criterion a) of policy CP20.
- 6.90 The proposal relates to an existing albeit temporary site, there would be no increase in the number of pitches or families on the site, it is not considered that the proposal would result in any significant increase in usage which would prejudice local residential and/or rural amenity as such the proposal would accord with criterion b).
- 6.91 As already stated, the number of pitches would not increase as such the scale of the development would not dominate the nearest settled community, thus the proposal meets criterion c) of policy CP20.
- 6.92 With regard to traffic movement, it is also necessary to consider Policy SQ8 of the MDE DPD which states that development will only be permitted where there will be no significant harm to highway safety. In addition, paragraph 116 (NPPF) 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. The potential increase in traffic movement would be minimal and as such would not have a severe impact on highway safety. Consequently, the proposal meets criterion d) of policy CP20, in addition to the other relevant local and national planning policies.
- 6.93 Whilst there is not cycle access per se to the site, it has already been noted by the Inspector that the site is reasonably accessible to shops, schools and other community facilities. It can therefore be concluded that the proposal meets criteria d) and e) of policy CP20.

Character and Appearance

- 6.94 In terms of policy context, Policy CP24 of the TMBCS requires development to be of a high quality and be well designed to respect the site and its surroundings in terms of its scale, layout, siting, character and appearance. Policy SQ1 of the MDEDPD advises that new development should protect, conserve and, where possible, enhance the character and local distinctiveness of the area including its setting in relation to the pattern of the settlement, roads and surrounding landscape.

- 6.95 These policies are broadly in conformity with those contained within the Framework which relate to quality of new developments, in particular paragraph 135 of the NPPF that requires proposals to be visually attractive as a result of good architecture, layout and appropriate and effective landscaping. Schemes should also be sympathetic to local character and history, including the surrounding built environment and landscape setting.
- 6.96 The existing site comprises four pitches, all four pitches have temporary permission for touring caravans and parking/turning areas, two of the pitches (to the southern end) have temporary permission for a static caravan each together with day/utility rooms.
- 6.97 This application would not alter the existing caravans or the day/utility rooms and associated infrastructure on the site but would allow these to be permanent. The proposal would, also, introduce two further permanent static caravans and two day/utility rooms to the two pitches to the northern end.
- 6.98 The proposal would not increase the size of the pitches or the site as such there would be no further harm on the character and appearance of the area.
- 6.99 The additional static caravans and day rooms would fit in with the overall form and layout of their surroundings, it is therefore considered that the proposal would be in compliance with paragraph 135 (NPPF), Policy CP24 of the Tonbridge and Malling Borough Core Strategy and Policy SQ1 Managing Development and the Environment Development Plan.

Neighbour Amenity

- 6.100 Policy CP24 of the Tonbridge and Malling Borough Core Strategy requires that all development must be well designed and respect the site and its surroundings. It outlines that development by virtue of its design which would be detrimental to amenity will not be permitted.
- 6.101 Paragraph 135 (f) of the NPPF advises that:
- “Planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users”.*
- 6.102 Consultation responses from neighbouring residents have raised concerns regarding the intensification of use on this site, and that this is likely to cause disturbance to neighbours. Concerns have also been raised in regard to light and noise pollution leading to the loss of neighbour amenity.
- 6.103 The nearest neighbour is to the west of the site, (55 The Paddocks) and is approximately 90 metres from the pitches themselves. 71 Leybourne House to the north west is around 160 metres from the dwelling to the pitches, 33 - 39 Birling

Road to the south west are around 135 metres from the closest pitch. Residents at Leybourne Chase which have been reference in third party comments would be almost 400 metres from the nearest dwelling (Charlotte Way) to the closest pitch.

- 6.104 Moreover, as stated above the number of pitches would not increase as a result of the proposal nor would there be any significant increase in the number of occupants. The site is reasonably well screened and set back from Birling Road by some 57 metres.
- 6.105 This distance coupled with the mature trees to the west of the site, and the site boundary treatment, is considered sufficient to ensure that the proposal would not harm neighbour amenity as such accords with Policy CP24 of the Tonbridge and Malling Borough Core Strategy and the aims of the NPPF.

Access and Parking

- 6.106 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. 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.
- 6.107 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.
- 6.108 Third party comments have raised comments in relation to Birling Road being a narrow country road, and that the proposal would result in increased traffic congestion. Comments have also suggested "*there is no evidence of a full transport or traffic impact assessment, and the proposed layout does not appear to address visibility splays, vehicle turning, or pedestrian safety—contrary to the guidance in NPPF Paragraphs 110–112*".
- 6.109 The existing access is to remain and there is sufficient space to accommodate off street parking and for vehicles/touring caravans to turn within the site and exit in a forward gear.
- 6.110 KCC Highways were consulted on the proposal, however, the KCC response confirmed that the development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements.
- 6.111 Moreover, the site is also not of a size to warrant or justify the need for a transport statement. Paragraph 116 (NPPF) is clear 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.

- 6.112 It is therefore considered that the access and parking proposals comply with Core Strategy Policies CP2, Managing Development and the Environment DPD Policy SQ8 and the NPPF.

Ecology and Biodiversity.

- 6.113 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. Paragraph 186 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.
- 6.114 Policy NE2 Managing Development and the Environment Development Plan, outlines that the biodiversity of the Borough and in particular priority habitats, species and features, will be protected, conserved and enhanced.
- 6.115 Policy NE3 Managing Development and the Environment Development Plan 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. 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.
- 6.116 Turning first to ecology, Leybourne Parish Council has raised concerns that *“no Preliminary Ecological Appraisal (PEA) has been conducted and without robust ecological evidence, the long-term impact of this proposal on biodiversity remains unknown and unaddressed”*.
- 6.117 Third party comment have also stated that *“No PEA has been supplied even though the plot borders ancient woodland and trees protected by preservation orders. This conflicts with National Planning Policy Framework paragraph 180 and Local Plan policy NE2”*
- 6.118 Interested parties have also referred to the site being between Ancient Woodland and close to an Area of Outstanding Natural Beauty (Now known as National Landscapes).

- 6.119 The site is not adjacent to an Ancient Woodland area. The Ancient Woodland lies approximately 140 metres to the south of the site. Also, for clarification there are no TPO's on the site nor does the site lie within or close to an area of National Landscape to warrant consultation/consideration of these policy constraints.
- 6.120 In regard to ecology the site is an established albeit temporary gypsy traveller site which comprises all hard standing within the site itself, together with landscaping to the boundary, the application would not alter this and as such there is no justification to require a PEA appraisal to be undertaken. The additional caravans/dayroom would be sited on existing hardstanding.
- 6.121 In regard to biodiversity, it is now a national requirement that small scale developments must provide at least a 10% biodiversity net gain. However, there are exemptions to BNG this includes (but not limited to) applications that are considered to fall under the De Minimis Exemption.
- 6.122 The application is accompanied by a biodiversity statement. The applicant is claiming an exemption from BNG in relation to the application being 'De Minimis'. This being that the development does not impact on priority habitats or has a minimal impact on other habitats (less than 25 square meters of on-site habitat or 5 meters of linear habitat) are exempt.
- 6.123 As stated above the existing area is currently all hard surface and the additional two static caravans and two dayrooms would be sited on the existing hard surface. The permanent use of the site would not alter the biodiversity of the site.
- 6.124 Therefore, to conclude on BNG the proposal would meet the De Minimis exemption.

Other Matters

- 6.125 Officers are aware of a recent appeal decision in the Borough that is considered to be a material consideration. This is:
- TM/23/03168 - APP/H2265/W/24/3349987 - Kooland, Rochester Road, Burham,
 - Appeal Decision 24 June 2025
- 6.116 The development proposed is 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 and erection of ancillary amenity building
- 6.126 This appeal was part allowed, and part dismissed. The dismissed element related to an ancillary amenity building due to its location within National Landscape designation, the element allowed albeit temporary, related to the change of use of the land to a 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.

- 6.127 Officers note the Inspectors comment in relation to the emerging Local Plan (Paragraph 55 appeal decision) however, officers consider there are material differences between the appeal decision and the application presented to members. The appeal site is not within the Green Belt and as such the Inspector did not need to undertake a Grey Belt assessment. Had this been undertaken the Inspector may have formed a view that the site was Grey Belt and as Grey Belt (meeting all the relevant criteria in Paragraph 155 (NPPF)) the Inspector may have concluded the site was appropriate development as officers have done so in this case.
- 6.128 Moreover, the Inspector gave weight to the stage of preparation of the emerging Local Plan which noted that that a Regulation 19 consultation was scheduled for December 2024. This did not take place, due to changes in national. Moreover, since this Appeal decision, the emerging Local Plan has moved forward as already outlined in the emerging Plan section above and the GTAA 2025 which forms part of the evidence base for the emerging Plan has been published.

Conclusion

- 6.129 The site would constitute Grey Belt land and would meet all 'relevant' criteria as set out in paragraph 155 (NPPF) and as such would be regarded as appropriate development.
- 6.130 It therefore follows that as appropriate development Paragraph 11 d (ii) is engaged 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 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.
- 6.131 As Grey Belt land there are no policies in the Framework that would provide a 'strong' reason for refusing the development proposed, moreover, no adverse impacts of doing so have been identified that would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 6.132 Therefore, the presumption in favour of development must apply in this case and consequently, the application is recommended for approval subject to conditions.

7. Recommendation: Approved subject to the following:

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

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

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

- Location Plan Drawing No. LP-02-2025
- Block Plan Drawing No. BP-LS-03-2025
- Proposed Utility Blocks Drawing No. UB-01-2025-Birling
- Design and Access Statement By BFSGC dated 30 May 2025
- Biodiversity Statement dated 30 May 2025
- Flood Risk Map Drawing No. FRA-01 dated 30 May 2025
- Flood Risk Map Drawing No. FRA-02 dated 30 May 2025

Reason: For avoidance of doubt and in the interests of proper planning.

3) No more than four mobile homes/ static caravans and four touring caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site (shown on the red outline) at any time. The touring caravans on site which are not static caravans or mobile homes shall not be separately occupied.

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

4) The caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended shall be sited in accordance with the proposed Block Plan Drawing No. BP-LS-03-2025.

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

5) The site shall not be occupied by any persons other than Gypsies and Travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons as defined in Planning Policy for Traveller Sites, 2024 (or any subsequent definition that supersedes that document).

Reason: To ensure the site provides accommodation for those who meet the definition of Gypsies and Travellers.

6) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site and no commercial activities shall take place on the land, including the storage of materials.

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

7) Notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no

gates, walls or fences or other means of enclosure including bunding, shall be erected on the site.

Reason: To enable the Local Planning Authority to regulate and control any such further development in the interests of amenity and privacy.

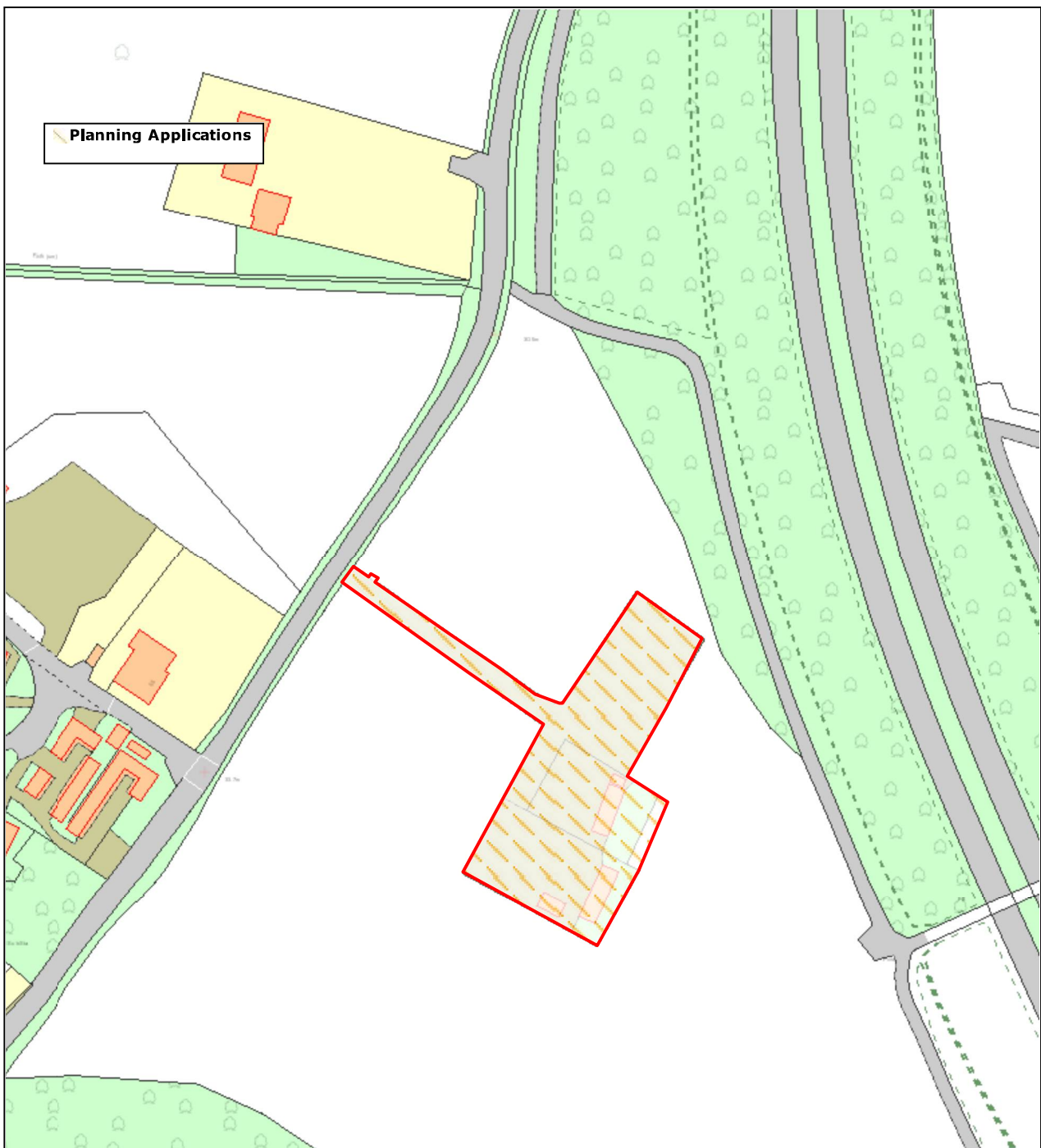
- 8) No additional external lighting shall be installed on the site until details have been submitted to and approved in writing by the Local Planning Authority.

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

Informatives

- 1) 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 recommended that no bonfires are undertaken at the site.
- 2) Your attention is drawn to the comments within TMBC Waste Services response dated 27 June 2025.

Contact: Susan Field



Planning Applications 25/00944/PA

Scale: 1:1250



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East Peckham
East & West Peckham
Mereworth and Watlingbury

03 DECEMBER 2025

TM/25/00656/PA

Location: Grove Farm, Maidstone Road, Hadlow

Proposal: Redevelopment of student accommodation to provide 17 new homes.

Go to: [Recommendation](#)

1. Description of Proposal:

- 1.1 The application proposes the demolition the existing buildings on the site to create 17 private residential properties. The development would largely retain the existing layout, scale and built form at the site. The submission indicates the extent of residential curtilage for each individual dwelling, including parking arrangements and associated hard and soft landscaping which involves provision of a communal amenity space.
- 1.2 Block A is an elongated single storey building located in the western part of the site. The existing building comprises 18 student bedrooms, together with a communal lounge, kitchen and plantroom. This application seeks to demolish this building and erect a similar, albeit larger, elongated single storey building over the existing footprint. This building would provide eight 1 bed (2 person) units.
- 1.3 The submission proposes to demolish Block B, which is the rectangular shaped building located adjacent to Block A currently comprising 9 student bedrooms, and a kitchen/lounge area. It is proposed to erect two single storey buildings. The replacement buildings would be positioned on the footprint of this existing building and the partially implemented Social Club that was granted planning approval under application reference number:15/03658/FL. The resulting buildings would accommodate four units (2 pairs of semis), comprising four 2-bedroom (3 person) units. The units would all have a bathroom and open plan kitchen, living and dining areas.
- 1.4 The large two storey building (Block C) located in the north-eastern part of the site close to the site entrance is also proposed to be demolished. The existing building comprises 18 student bedrooms split over two floors, with a communal lounge and kitchen on both levels. This is to be replaced with two 2 storey detached 3 bed dwellings. These units (excluding the garage) would sit within the footprint of the existing building. One of the units proposed would have an attached single storey garage.
- 1.5 Block D relates to a large two storey building formerly two workers cottages positioned in the south-eastern corner of the site. This building would be demolished

and replaced with three 2 storey detached 3 bed (5 person) units. One unit would benefit from an attached single storey garage.

- 1.6 The scheme includes provision of communal amenity space together with a landscape enhancement area to the southern end of the site. The proposal also includes parking areas together with a designated turning area.

2. Reason for reporting to Committee:

- 2.1 The application is referred to committee by Councillor Matt Boughton due to the sites complex planning history, including previous refusal and dismissed appeal and the nature of the development outside of the settlement confines within the Green Belt.

3. The Site:

- 3.1 The application site comprises a large, converted house, a two-storey semi-detached former workers cottage and two large single storey buildings. The site lies on the western side of the A26 (Maidstone Road), outside the built confines of Hadlow, in the open countryside and the Metropolitan Green Belt. The loose collection of buildings at the site has been used previously as living accommodation for approximately 55 students, from Hadlow College.
- 3.2 The southwest site boundary adjoins a series of fishing lakes used by Hadlow College as part of their fisheries management courses. To the north of the site is open agricultural land and a block of wooded area characteristic of the surrounding countryside. The site's front boundary is enclosed by a short picket fence allowing open views into the site from the A26 (Maidstone Road). A Flood Zone 2 and 3 is located further to the south beyond the site boundaries. Access from the A26 (Maidstone Road) is gained via a gated entrance. The A26 (Maidstone Road) is a classified road.

4. Planning History (relevant only):

24/00373/PA - Application Withdrawn - 03 December 2024

Change of use of existing student accommodation to house of multiple occupancy (HMO)

23/00329/FL - Application Withdrawn - 16 May 2024

Demolition of existing buildings and redevelopment of site to form 16 private residential dwellings with associated hard and soft landscaping (Revision of refused application 22/01691/FL)

22/01691/FL - Refuse - 31 January 2023 - Appeal dismissed 30 January 2024

Demolition of existing buildings and redevelopment of site to form 17 private residential dwellings with associated hard and soft landscaping

- 4.1 As noted above planning permission was refused and subsequently dismissed on appeal for a similar scheme. This application seeks to address those previous concerns.
- 4.2 The 2022 application was refused for two reasons, the first related to inappropriate development in the Green Belt, the second in relation to the failing to provide provision of affordable housing.
- 4.3 In regard to reason 1 - inappropriate development, the previous scheme would have resulted in a significant increase in volume and in so doing, have a greater impact on the openness of the Green Belt than the existing development. Owing to this, it was considered that this would further erode the visual and spatial aspects currently experienced at the site. To this extent, and in principle, the proposal was considered to be inappropriate development within the Green Belt in conflict with the aims of paragraph 149 of the NPPF (2021).
- 4.4 In regard to reason 2 – affordable housing, whilst the application was supported by a viability statement, it was considered that the viability statement presented did not satisfy the minimum requirements as set out in the Council's Affordable Housing Protocols. These minimum requirements are material factors relevant to the determination of the viability, or otherwise, of the proposed development to contribute towards the provision of Affordable Housing required in policy CP17 of the TMBCS. Thus, in failing to provide a viability justification, the Council considered the scheme would cause harm to the wider interest of local affordable provision and would be contrary to the terms of development plan policy CP17 of the TMBCS paragraph 63 of the NPPF (2021).
- 4.5 When considering the appeal, in regard to the Green Belt, the Inspector noted, overall, while the proposal would improve openness in some limited respects, the proposal as a whole would cause a considerable reduction in both the spatial and visual aspects of the Green Belt's openness. As such the proposal would have a greater impact on the openness of the Green Belt than the existing development, and would not conform to the NPPF set out above.
- 4.6 In regard to the viability of the site in relation to affordable housing provision the Inspector noted that the Council did not specifically dispute the need for a site specific viability appraisal here and the matter in dispute related to establishing a benchmark land value for the site. Concluding *"I appreciate that the appellant sought an alternative methodology given the unusual circumstances of the appeal site. Nonetheless, I am required to assess the proposal based on the evidence put before me and the lack of cooperation does not provide reason to find the proposals acceptable in this regard. On this basis it cannot be established with the necessary degree of certainty that the proposal would deliver an appropriate contribution to affordable housing. This presents conflict with Policy CP17 of the LP as well as the objectives of the Framework relating to the delivery of mixed communities and meeting identified housing needs"*.

4.7 Since the appeal decision was issued there has been a fundamental change to the NPPF in December 2024. Of particular importance to this application, is the amended wording to paragraph 154 criteria g).

4.8 In 2021 the then relevant paragraph 149 stated that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this included:

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

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

4.9 This has since been amended and the current NPPF at paragraph 154 states “development in the Green Belt is inappropriate unless one of the exceptions applies (a to h). This includes:

g) limited infilling or the partial or complete redevelopment of previously developed (PDL) land (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings) which would not cause ‘substantial’ harm to the openness of the Green Belt

4.10 Therefore the test now to be applied when determining the application is whether the proposal would cause ‘substantial’ harm and not just whether it would have a ‘greater impact’ on the openness of the Green Belt.

Consultees:

4.11 Whilst some comments have been summarised for the purpose of this report, all statutory and third-party comments have been reviewed in full. Moreover, comments may not have been specifically referred to within the assessment, but all planning related/relevant comments have been taken into account prior to the preparation of the committee report.

4.12 East Peckham Parish Council: No objections

4.13 Planning Policy: No comments received

Housing Services: I note viability information has been submitted to evidence policy compliant 40% affordable housing provision is not viable, and a financial contribution is proposed. The amount of on-site provision that is viable needs to be established before a financial contribution can be considered. The submission is not supported as currently proposed with no on site affordable housing provision.

4.14 Leisure Services:

The development appears quite isolated from any existing open space provision in the area. Open space should, in the first instance, be provided on the development site. If provision on-site or off-site is not feasible, contributions should be sought to enhance relevant existing open spaces.

- Children's play space in the form of a LAP, LEAP and a contribution towards a MUGA should be provided on site and details should be provided and meet the latest British standards.
- LAPs and LEAPs should be fenced off as per guidance if they are located close to roads
- Contributions sought for this development should total £45,728

Open space demand generated by the development 2175 (net, sq. m):

In accordance with the methodology and sequential approach outlined in Annex D to the MDE DPD, and taking into account onsite provision of Amenity Open Space, initial consideration should be given to further on-site provision in areas of quantitative deficiency, though given the nature of the development proposal it is presumed that this may not be feasible. If provision is not made on-site, consideration should then be given to the developer providing off-site open space in accordance with the quantity standards set out in Policy Annex OS3 (translated to a standard of open space per person in Figure 4 in Annex D to the MDE DPD).

Parks & Gardens – £14,668

Amenity Green Spaces – N/A

Outdoor Sports Facilities - £27,278

Children's and Young People's Play Areas - £3582

Natural and Semi Natural Green Spaces – N/A

If provision is not made on or off-site, a sum total contribution of £45,728 should be sought.

4.15 Environmental Health Protection: First response

Construction management plan - There is no reference to the banning of fires during the clearance and development stage. This needs to be included.

Noise - I would recommend that a Condition be included with any approval requiring the applicant to submit a noise report detailing the current noise climate at the proposed site due to the close proximity of the A26.

Foul drainage - A package treatment plant is proposed to be used to deal with the foul water drainage installed for this development. Details in regard to the package

treatment plant should be secured via a condition. Standard informative also required.

Contaminated land - Based on the review of Preliminary Contamination Risk Assessment (Environmental Assessment Services Ltd, April 2022)

The report presents the findings of a desk study and site walkover. It adequately reviews the history and environmental setting of the site. Potential sources of contamination have been identified which require further investigation. These include the use of road plantings as a surface cover, historic farm activities, and potential asbestos containing materials within the buildings. I therefore recommend standard conditions:

Second response – 6 May 2025

Updated Construction Management Document – No further comments

Acoustic report: - The applicant has provided a noise assessment produced by Anderson Acoustics reference 8184 dated 23 April 2025 which considers the noise environment of the site and makes acoustic design recommendations. The report's contents have been assessed and it is advised a condition be placed requiring noise mitigation measures (including mechanical ventilation with heat recovery system and protection of amenity areas) to be incorporated into the development prior to first habitation that are no worse acoustically than that laid out in Anderson Acoustics report and that these details are provided to the local planning authority at the time.

4.16 Waste Services: Standard information regarding collection and bin sizes.

4.17 West Kent PRoW: I can confirm that I do not have any objections to the above planning application at Grove Farm. Public Right of Way Footpath MR363 lays to the south of the proposed site and should be unaffected by the application. General Informative's regarding PRoW consents suggested.

5.8 Southern Water Services: No comments received

5.9 Kent Wildlife Trust: No comments received

5.10 Kent Police: Standard information regarding crime prevention and designing out crime.

5.11 Kent Highway Services: Having considered the development proposals and the effect on the highway network, no objection is raised on behalf of the local highway authority subject to a Construction Management Plan condition, and conditions relating to the provision and permanent retention of the cycle parking, completion and maintenance of the access as shown on the submitted plans. Provision and maintenance of the visibility splays as shown on the submitted plans and standard informatives.

5.12 KCC Heritage Conservation: No comments received

5.13 KCC Developer Contributions: KCC would reasonably expect that any resolution from the LPA to grant planning approval must be subject to a satisfactory s106 legal agreement to ensure KCC's planning obligations are secured appropriately. An opportunity to comment on any draft agreement would be welcomed if a resolution to grant permission is given. A summary of the projects serving the development and proportionate contributions requested is set out in Table 1.

Table 1 – Contribution Request Summary

	Per Applicable House (17)	Total (based on applicant's mix)	Project
Primary Education	While a primary education place pressure is created by this development, it is minimal and can be accommodated elsewhere in the education planning group or neighbouring planning groups. This decision also recognises the development site's viability concerns.		
Secondary Education	£5,587.19	£94,982.23	Towards the establishment of a new 6 FE Secondary School as identified at Broadwater Farm OR An alternative new secondary school in either the Malling non-selective and Maidstone & Malling selective, or Tonbridge & Tunbridge Wells non-selective education planning groups.*
Secondary Land	£4,785.97	£81,361.49	Towards the land acquisition cost for the new 6 FE Broadwater Farm Secondary School, or alternative site land for a new secondary school in either the Malling non-selective and Maidstone & Malling selective, and Tonbridge & Tunbridge Wells non-selective education planning groups.
	*The flexibility required across education projects and education planning groups is in accordance with the DfE Guidance on Securing Developer Contributions for Education dated August 2023 (Para 47).		
Special Education Needs & Disabilities (SEND)	£559.83	£9,517.11	Towards the provision of additional SEND places within new and existing facilities, including at Nexus Foundation Special School in Tonbridge to serve the needs of the Development

'Applicable' excludes: 1 bed units of less than 56 sqm GIA, and any sheltered accommodation.

	Per Dwelling (17)	Total	Project
Community Learning and Skills	£34.21	£581.57	Towards additional equipment and resources for adult education centres serving the development, including outreach provision.
Integrated Children's Services	£74.05	£1,258.85	Towards additional equipment and resources for the Integrated Children's Services in the borough including outreach provision
Library, Registrations and Archives Service	£62.63	£1,064.71	Towards additional resources, equipment and book stock (including reconfiguration of space) at local libraries serving the development including Hadlow Library
Adult Social Care	£180.88	£3,074.96	Towards Specialist care accommodation, assistive technology systems and equipment to adapt homes, adapting Community facilities, sensory facilities, and Changing Places within the Borough
	All Homes built as Wheelchair Accessible & Adaptable Dwellings in accordance with Building Regs Part M 4 (2)		
Waste	£194.13	£3,300.21	Towards Household Waste Recycling Centre and Waste Transfer Station capacity serving the development, including at North Farm Depot, Tunbridge Wells
<i>Highways, PRow, SUDS, Ecology, Heritage Conservation & Minerals.</i>	<i>Please note other KCC Service areas may respond separately</i>		

5.14 Medway IDB - The site is near to the Internal Drainage District (IDD) of the Upper Medway Internal Drainage Board (IDB) and is within the Board's watershed catchment (meaning water from the site will eventually enter the IDD); therefore, the Board's Byelaws apply. Whilst the Board's regulatory process (as set out under the Land Drainage Act 1991 and the Board's Byelaws) is separate from planning, the ability to implement a planning permission may be dependent on the granting of any required Land Drainage Consents.

5.15 The Board has reviewed the documents submitted in support of the above planning application. Officers have noted works which require Land Drainage Consent from the Board as outlined in the table below and detailed overleaf. Please be aware of the potential for conflict between the planning process and the Board's regulatory regime.

5.16 As Land Drainage Consent is required, the Board strongly recommends that this is sought from the Board prior to determination of this planning application. The Board will only consider the proposals in detail on receipt of an application for Land Drainage Consent. The annexe at the end of this letter outlines the Board's regulatory function and how to apply for Land Drainage Consent.

5.17 KCC Local Lead Flood Authority: First response dated 29 April 2025

Kent County Council as Lead Local Flood Authority have reviewed the Drainage Strategy prepared by Environmental Assessment Services Ltd (April 2022) and have the following comments:

- a) Page 6 of the Drainage strategy states that "The layout of the proposed redevelopment is yet to be confirmed, and it is not feasible to provide a suggested drainage arrangement, beyond the suggested location of the attenuation storage pond, at this time." At this stage, we would expect a full drainage strategy for the proposed development including:
- A drainage proposal schematic or sketch with an agreed layout that includes the drainage provision.
 - Details of any drainage features such as depth, permanent water level, side slopes, freeboard provision etc.
 - Supporting calculations to demonstrate the drainage system's operation and drainage model network schematic
- b) Could the applicant clarify whether the foul drainage from the proposed development is being treated and discharged into the watercourse? If the foul drainage is indeed being treated and discharged into the watercourse, the total combined discharge rate, including both surface water and treated foul water, should be taken into account.
- c) At the detailed design stage we would expect the 'upper end' climate change allowance, for both the 30 (3.3%) and 100 (1%) year storm scenarios, to be applied within the necessary hydraulic modelling.
- d) We note that rainfall model FSR data rather than FEH data is used. We would expect to see the drainage system modelled using 2022 FeH rainfall data in any appropriate modelling or simulation software. Where 2022 FeH data is not available, 26.25mm should be manually input for the M5-60 value, as per the requirements of our latest drainage and planning policy statement (November 2019).
- e) As part of the hydraulic calculations, we note that the percentage runoff is set to 95%. Given the total drained area is for the impermeable area, we require this to be set at 100%. We would seek for this to be updated and be provided.

Unless the above information is provided, Kent County Council as Lead Local Flood Authority does not recommend approval of the application at this time.

Second Response dated 16 June 2025

An updated drainage strategy has been provided for the proposals, which includes a limited amount of detail on the proposed surface water drainage proposals. It sets out that a swale / basin could be accommodated within the landscape enhancement area, although we would note that this is shown indicatively and does not feature on the site plan for the development. No detailed plans of the swale are provided in the strategy.

We also note that the proposed site plan referred to use of permeable block paving within areas of the development, which is considered within the drainage strategy but not referred to in detail.

Point (e) within our previous response does not appear to have been addressed. This requested that, as part of the hydraulic calculations, the percentage run-off for the impermeable area be set at 100%, rather than the 95% utilised, in order to reflect the impermeable nature of these surfaces.

Whilst the principles of the drainage strategy are accepted, this proposal is for a full planning permission and we would highlight the lack of consistency between the drainage strategy and wider site plans for the development, as well as the limited level of detail provided to demonstrate the drainage strategy can be adequately accommodated within the proposed layout. The LPA should consider these matters to ensure that the proposals would be deliverable in conjunction with any other planning requirements for the site.

Notwithstanding the above, technical matters for the drainage scheme could be dealt with during detailed design phases and secured by condition, if the LPA was minded to grant permission for the development. We would request conditions relating to sustainable surface water and verification reports are attached to any consent.

- 5.18 KCC Ecological Advice Service: We advise that additional information is required prior to determination of the planning application regarding the BNG assessment and the potential for GCN and barn owl to be present.

Protected/Notable Species

We have reviewed the ecological information submitted with this application and application 23/00329/FL and we are satisfied that that it is unlikely that reptiles and roosting bats are present. However further information is required on GCN and barn owl.

The surveys submitted with application 23/00329/F concluded that it is unlikely that roosting bats or reptiles are present within the site but there are at least 3 species of bats foraging/commuting within the site and there is potential for breeding birds

(including barn owl), badger, hedgehog and GCN to be present within the site. The ecological survey for this application detailed that it was unlikely that GCN were present and did not consider the potential for barn owls to be present. We are satisfied with the conclusions of the current submission that the results of the bat and reptile surveys are likely to be valid.

As the buildings may be used by barn owls and therefore the recommended internal surveys of the buildings to assess if barn owls are likely to be present must be carried out prior to determination of the planning application. There is a need to ensure that if present appropriate mitigation can be implemented for barn owls. This is in alignment with paragraph 99 of ODPM 06/2005 which states “it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision”.

We advise that information must be submitted clarifying why the current ecologist dealing with this application considers it unlikely that GCN are present. We highlight that there may be a need for further surveys or information demonstrating the site has been accepted on to the District Level Licencing scheme for Great Crested Newts.

We advise that sufficient information has been provided with regard to mandated BNG.

The submitted information has detailed that a BNG of over 10% can be achieved through the creation of a large area of scrub within the south of the site.

We advise that if this area becomes dense scrub it will not be usable as recreational space for residents. Therefore we advise that TMBC must be satisfied that this is appropriate and if it is not we recommend that the proposed habitat plan and BNG assessment is updated.

If the updated metric demonstrates that the site will not achieve a BNG of 10% additional units will have to be purchased from an off site provider.

5.19 Interested Parties: Only letters of support have been received in response to the application.

- From what I've seen in the drawings, the plans clearly represent a significant improvement on what is currently there. It's good to see that bungalows are included too, offering a variety of housing options.
- It doesn't make sense for sites like this to sit empty and neglected while new houses continue to be built on green fields. The current state of the site reflects poorly on the surrounding area—many people pass by and see a run-down, abandoned space.

- The proposed design looks strong to me. As long as quality materials are used and the landscaping is well done, I believe this will be a positive development that benefits the wider community
- Very much support this application, and it is long overdue to resolve the issues over the site. Let's new buildings into occupation - they are very much needed in this area. The applicant seems to have responded to T & M's concerns re over-development, and is ensuring that the number and height of the dwellings suit this rural site. T & M's desire to provide smaller sized homes could be partly met by these homes, and the parking provision seems reasonable. Given that car use is essential for future residents, and even the smaller units may need two cars per home to get to work, 34 spaces for residents and all their visitors seem right. A four bedroom house these days usually has four cars outside it (I know, as I live in such a group of homes). Although there is a good bus service along the road, leading to Maidstone or Tunbridge Wells, there is currently no bus stop along this East Peckham stretch. I see passengers having to brave speeding traffic to hail a bus at various points from Stanford Lane to Seven Mile Lane, which is not satisfactory. (Note the work being undertaken at Kent Street to alleviate this.) There is also no paved footpath along this part of the A26 and no bicycle lane, so car ownership is vital.
- A vital provision, of course, is true full-fibre broadband for homes all along this stretch of the A26, as far as Hadlow.
- This new housing initiative has the potential to address the growing demand for affordable housing options. Furthermore, the housing development project promises to improve the run down state of the site.
- The site has been sitting unused for quite a long time, and it's felt like a bit of a wasted opportunity in an area where well-designed homes are so needed. I really like that this proposal focuses on a mix of smaller bungalows for first-time buyers and downsizers, along with some more traditional family houses. It seems like a thoughtful approach that could help create a more balanced and welcoming community.
- As someone who lives nearby, I also appreciate that most of the homes are single-storey — not only do they blend in better with the area, but they're also more accessible for older residents or those with mobility issues. It's also good to see that they've considered parking properly; in rural areas like ours, it's realistic to expect most households will need at least one car.
- After reading the current planning application/design I can only believe this will be a huge positive for the local area and bring a current derelict run down site to a practical and tasteful construction, not only serving a massive housing issue we have currently but, also improving the area hugely that it so badly needs. A positive this development all round, we believe.

- As a local resident, I think it is important that the Grove Farm site is redeveloped and starts being used again. It has been left for too long and has deteriorated year on year. I consider the proposed design is attractive, sympathetic to the greenbelt location and addresses the need for smaller, rural homes for first-time buyers in the Tonbridge area. The plans show careful consideration has been given to the parking requirements to ensure parking is adequate for the proposed redevelopment.

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 in force for this area comprises the Tonbridge and Malling Local Development Framework Core Strategy (TMBCS) adopted in September 2007, the saved policies of the Tonbridge and Malling Borough Local Plan 1998 (TMBLP), Development Land Allocations DPD (DLA DPD) adopted in April 2008 and the Managing Development and the Environment DPD (MDE DPD) adopted April 2010.
- 6.3 The National Planning Policy Framework ("NPPF 2024") the associated National Planning Practice Guidance ("PPG") and National Design Guide are important material considerations.

Emerging Local Plan

- 6.4 On the 21 October 2025 the Housing and Planning Scrutiny Select Committee, recommended to the Council's cabinet that the next stage of the emerging draft Local Plan is moved forward, paving the way for the formal public consultation which commenced on 10 November 2025.
- 6.5 The emerging Local Plan sets out how the Council will meet the government's objectively assessed housing need requirement to deliver 19,746 new homes, which equates to 1097 per year.

Principle of development

- 6.6 Core Strategy Policy CP14 relates to development within the countryside. It states in the countryside development will be restricted to certain criteria (a to i) the proposal does not fall within one of the categories listed in Policy CP14. Notwithstanding this, the Council acknowledge that this policy is not consistent with the 'language' of the NPPF and so carries significantly diminished weight in the overall planning balance.

- 6.7 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”.
- 6.8 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. The Council’s latest published position (December 2024) indicates a 2.89 year supply of housing.
- 6.9 As a consequence, the presumption in favour of sustainable development as set out in paragraph 11 of the NPPF (2024) would need to be considered when assessing any development for housing. In this case 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.
- 6.10 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, this includes Green Belt. Therefore, it first needs to be established whether the policies in the Framework that protect areas or assets of particular importance provide a ‘strong’ reason for refusing the development.

Green Belt Assessment

- 6.11 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.
- 6.12 As set out in the history section, there has been a fundamental change in national policy since the refusal and dismissed appeal for a similar scheme.
- 6.13 Paragraph 153 (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.

6.14 Paragraph 154 (NPPF) states, LPA's should regard development in the Green Belt as inappropriate unless one of the listed exemptions apply (a to h). This includes:

g) limited infilling or the partial or complete redevelopment of previously developed (PDL) land (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings) which would not cause 'substantial' harm to the openness of the Green Belt.

6.15 The definition of PDL is defined in Annex 2: Glossary to the NPPF as:

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

6.16 The site comprises various permanent structures and associated fixed surface infrastructure as such the site would constitute PDL.

6.17 Therefore, the test to be applied in terms of Green Belt is whether the proposal would cause 'substantial' harm to the openness of the Green Belt.

Assessment on Openness

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

6.19 With regard to openness, the leading court cases of Turner [2016] and Samuel Smith [2020] and numerous subsequent appeal decisions have confirmed that Green Belt openness has a spatial dimension and a visual dimension. Moreover, it must not be forgotten that these dimensions work in tandem and not in isolation, and in context, a synergy that is not always transparent in assessments of effects on openness, which can appear heavily weighted towards the spatial aspect.

6.20 Therefore, when assessing whether the proposal would cause 'substantial' harm to the openness of the Green Belt. It is necessary to look at the wider implications of the proposal and to consider it within its context. The impact on openness will vary

according to factors such as size and scale, and the prominence from public and private viewpoints.

6.21 As set out in the introduction, the majority of the new buildings will be sited on the footprint of the existing buildings on the site, see figure 1 below: It is noted that one of the three detached dwellings sits outside of the current built form. However, whilst extending the built form further to the south, the proposal also sees the built form set back further from the eastern boundary (front boundary) and therefore arguably both the spatial and visual effect overall on the openness of the Green Belt would be minimal.



Figure 1: - Proposed layout – red dots denotes existing buildings.

6.22 Furthermore, whilst there would be a new internal access road created, overall the proposal would result in a reduction in hard surfacing across the site due to the formation of residential curtilages (see figure 2).

6.23 In regard to bulk and height, there would be no overall increase in height for Block A albeit there would be an increase in length of the building, which would add additional bulk. Block B would see a slight reduction in overall height, which would be offset the increase in depth. Block C sees a significant reduction in overall height and

bulk. This reduction would compensate for the garage element, which would see the built form spread further to the north.

- 6.24 Block D is where the most significant change takes place as previously noted. Whilst there would be no increase in overall height, the spread of development would be greater than that which currently exists, with one unit being closer to the southern boundary than the existing building. However as already noted the three detached dwellings would be set further back from Maidstone Road, which will reduce the visual impact of those three units.
- 6.25 The application is accompanied by supporting figures. Figure 2 below, sets out the existing and proposed comparisons in terms of footprints, volume and hard surfacing.

	Existing Footprint (m ²)	Proposed Footprint (m ²)	Footprint net difference (m ²)	Change (%)
Block A	424	588	164	
Block B	434	326	-108	
Block C	216	170	-46	
Block D	179	150	-29	
Outbuilding	23	0	-23	
TOTAL	1276	1234	-42	-3.29%

	Existing Volume (m ³)	Proposed Volume (m ³)	Volume net difference (m ³)	Change (%)
Block A	1744	2403	659	
Block B	1453	1078	-375	
Block C	1810	1869	59	
Block D	954	1793	839	
Outbuilding	58	0	-58	
TOTAL	6019	7143	1124	18.67%

	Existing area (m ²)	Proposed area (m ²)	Area net difference (m ²)	Change (%)
Hard surfacing inc house footprints	3273	3101	-172	-5.26%

Figure 2: comparison figures

- 6.26 These figures demonstrate that overall, there would be a reduction in footprint and hard surfacing when compared to the existing development. Whilst there would be a 19% increase in volume, it is not considered that this results in a 'significant'

increase, as such, it is considered that the proposal would not cause 'substantial' harm to the openness of the Green Belt.

- 6.27 The proposal would therefore comply with paragraph 154 NPPF criterion g) and as such would be appropriate development in the Green Belt.

Grey Belt

- 6.28 As it has been concluded that the site would not cause substantial harm to openness of the Green Belt in compliance with criterion g) of paragraph 154 NPPF as "limited infilling or the partial or complete redevelopment of previously developed land" it is not considered necessary to consider the site against Grey Belt policy.
- 6.29 Furthermore, whilst paragraph 153 (NPPF) states when considering any planning application. LPA's should ensure that substantial weight is given to any harm to the Green Belt, including harm to openness, footnote 55 (NPPF) is clear that this weight is not afforded in the case of development on previously developed land or Grey Belt Land where development is not inappropriate as in this case.

Affordable housing

- 6.30 Paragraph 64 (NPPF) notes where a need for affordable housing is identified planning policies should specify the type of affordable housing required (including the minimum proportion of Social Rent homes required) and moreover this should be provided on site unless off site provision or a financial contribution can be justified.
- 6.31 With regard to affordable housing provision, Policy CP17 of the TMBCS states that in the urban areas, affordable housing provision will be sought on all sites of 15 dwellings or above or 0.5ha or above at a level of 40% of the number of dwellings in any scheme. The supporting text confirms that this will be the starting point for negotiations on a site-by-site basis and is subject to viability considerations. This Policy is elaborated further through the Affordable Housing Supplementary Planning Document adopted in July 2008.
- 6.32 Further guidance on the Council's strategy is set out in the Affordable Housing Protocol (Annex 1 Section 7 November 2021) which recognises that the impact planning obligations can have, when coupled with other policy requirements, may affect the viability of some development proposals.
- 6.33 In such exceptional circumstances. the Council will consider whether the benefits of the proposed development would outweigh the disadvantages of a more limited planning obligation, or no planning obligation at all. This will only be possible, however, where the developer provides evidence of the likely impact of the proposed planning obligation(s) on the viability of their development. Within this context, if a reduced percentage of affordable housing is being offered, the Affordable Housing Statement must explain why. If the reason for no provision, or for provision below the Council's adopted policy position is proposed, then a detailed financial viability

assessment (FVA) must be provided as part of the Affordable Housing Statement/Financial Viability Assessment.

6.34 In this case, the proposed scheme comprises all market housing, meaning there is no affordable housing either provided on site or off site or the relevant commuted sums contributing towards the Council's affordable housing programme. The application is supported by a FVA that indicates that the site would not be able to provide policy compliant affordable housing. The Appraisal identifies a range of factors contributing to the current viability position of the scheme. In accordance with the SPD, the Council has appointed an independent viability consultant to scrutinise the FVA.

6.35 There is a difference of opinion between the applicant and the independent assessors in regard to the current land value of the site. This is because the independent assessors consider that they have not been provided with a policy compliant Benchmark Land Value (BLV) assessment by the Applicant. In line with NPPG, the onus is on the applicant to evidence their position and not otherwise. In an attempt to negotiate, two scenarios have been considered by the independent assessors.

Scenario 1 – with a nil BLV would achieve a net profit of £244,808.

Scenario 2 with a provisional BLV of £200,000 (bases on a storage use) would achieve a net profit of £13,904.

6.36 The Independent assessors have therefore concluded that pursuance of the additional affordable housing contribution is, therefore, contingent on acceptance of the BLV assessment by the Council in this case.

6.37 However, whilst some differences remain on certain aspects of the FVA, both the Council's viability consultant and the applicant agree that the proposal, in its current form, is unlikely to generate sufficient profit to deliver the level of affordable housing required by policy. On this basis, the absence of an affordable housing contribution can be justified in this instance. However, as viability could improve or worsen over the course of construction and the amount of affordable housing contribution currently on offer falls substantially short of the relevant policy requirement, Officers suggest that a mechanism, secured via a Section 106 agreement, is put into place, that if the development is not built up to structural slab level within 12 months from the date of the S106, an updated FVA will be required to be submitted and independently reviewed.

Housing Mix

6.38 NPPF paragraph 63 states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. The adopted development plan does not contain specific housing mix

policies, although Core Strategy Policy CP1 states that provision will be made for housing to meet the needs of existing and future residents of the borough.

- 6.39 The Housing Needs Study 2022 provides the most up to date evidence base to inform decision making, and sets out the broad requirements which identify how housing supply can assist in meeting the need profile. However, the figures vary considerably depending on the sub area.
- 6.40 The proposals will provide a mix of eight x 1 bed units, four x 2 bed units and 5 x 3 bed units. Whilst the Housing Needs Study 2022 identifies a need for larger housing, in this case given that the site replaces 55 1 bed student units, coupled with its location, officers are satisfied that the mix is appropriate for the site and acceptable in this case.

Standard of accommodation

- 6.41 The National Design Guide (2021) sets out that high quality design includes the provision of satisfactory living conditions for future occupiers. All the proposed units would meet the national floorspace standards and provide sufficient and usable external amenity area as set out in figure 3 below:

Unit ref	Unit type	Bed no.s	Area (m ²)	Area (ft ²)
A1	Single storey end of terrace	1	61.7	663.892
A2	Single storey mid terrace	1	61.7	663.892
A3	Single storey mid terrace	1	61.7	663.892
A4	Single storey mid terrace	1	61.7	663.892
A5	Single storey mid terrace	1	61.7	663.892
A6	Single storey mid terrace	1	61.7	663.892
A7	Single storey mid terrace	1	61.7	663.892
A8	Single storey end of terrace	1	61.7	663.892
B1	Single storey semi detached	2	69.5	747.82
B2	Single storey semi detached	2	69.5	747.82
B3	Single storey semi detached	2	69.5	747.82
B4	Single storey semi detached	2	69.5	747.82
C1	Detached house	3	117.5	1264.3
C2	Detached house	3	121	1301.96
D1	Detached house	3	117.5	1264.3
D2	Detached house	3	117.5	1264.3
D3	Detached house	3	121	1301.96
Total		31	1366.1	14699.236

Figure 3 – NDSS table

- 6.42 All habitable rooms would have at least one reasonable sized window to ensure adequate natural light and ventilation would be provided to the future occupiers. All outside amenity space is also adequate for the size of units proposed and the number of intended occupiers.

Assessment on Character and Appearance

- 6.43 Paragraph 131 (NPPF) highlights the importance of creating high quality beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 6.44 Paragraph 135 (NPPF) seeks to ensure that decisions result in developments which are visually attractive as a result of good architecture, layout and landscaping, and are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.
- 6.45 Paragraph 130 of the NPPF offers bespoke advice on density, requiring all developments to make optimal use of the potential of each site. In this case the density of the scheme would be just under 26dph, which could be argued does not make optimal use of the site however, given the sites location in this case it is considered that 26 dph is acceptable and reflective of the sites location.
- 6.46 Policy SQ1 Managing Development and the Environment Development Plan, requires development to protect, conserve and where possible to enhance the character and local distinctiveness of the area.
- 6.47 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.
- 6.48 As already stated, the proposal involves the demolition of all the buildings currently on site, and whilst the existing buildings are not derelict and are of a design appropriate for their lawful use, the replacement buildings will improve the visual appearance of the site and the immediate area. The redevelopment of the site will be more coherent from a landscape perspective too, pulling the mass back from the front boundary and into the site allows for meaningful planting and landscaping between the highway and built form within the site.
- 6.49 Each unit is provided with its own front garden and private rear amenity space. All the units will also benefit from the use of a communal amenity area, which the planning statement sets out will be co-owned by residences and maintained collectively. The management plan for the communal area will form part of the sales contract and will bind buyers and future occupants to ensure the continued upkeep of the area.
- 6.50 In regard to materials, these are annotated on the proposed plans: For Block A, it is proposed to use oak weatherboarding to the front and sides with oak corner post detailing and facing brickwork to the rear, all under a slate roof. For Block B, again it is proposed to use oak weather boarding with a clerestory roof. Blocks C and D,

propose facing brickwork at ground floor level with oak weatherboarding at first floor level with a hand formed clay tiled roof. Decorative features include brick corbelling, lead scalloping below windows and render infill panels.

- 6.51 A material schedule accompanies the application and this sets out the finer details of the materials, ie specification, colour. Officers consider that the design and appearance of the dwellings and the suggested materials are suitable and in keeping with the character and appearance of the area. Should permission be forthcoming then a condition is suggested for the materials to be in accordance with the submitted details.
- 6.52 To conclude on character and appearance, subject to the recommended planning conditions, it is considered that the proposal is of an appropriate scale, form, design and appearance and would not harm the overall character and appearance of the immediate area in compliance with paragraph 135 (NPPF), Policy CP24 of the Tonbridge and Malling Borough Core Strategy and Policy SQ1 Managing Development and the Environment Development Plan.

Access and Parking

- 6.53 Policy CP1 of the TMBCS seeks the location of development which will reduce the need to travel, again highlighting the benefits of this edge of town centre location for new residential development. Policy CP2 (TMBCS) states that any new development that is likely to generate a significant number of trips should adhere to policy requirements including being “(d)...compatible with the character and capacity of the highway network in terms of the volume and nature of traffic generated”.
- 6.54 This policy is also supplemented by Policy SQ8 (MDE DPD) which states that before proposals for development are permitted, the applicant will need to “demonstrate that any necessary transport infrastructure, the need for which arises wholly or substantially from the development is in place or is certain to be provided” and development proposals will only be permitted “where they would not significantly harm highway safety and where traffic generated by the development can adequately be served by the highway network.”
- 6.55 Policy DC6 (MDE DPD) states: *“In consideration of development proposal which are in the vicinity of, or are served by, rural lanes, permission will only be granted where: (a) the development conserves and, where appropriate, enhances the value of the lane in terms of its landscape, amenity, biodiversity, historic or archaeological importance; and (b) any proposed alterations to the lane are the minimum necessary to serve the proposal in terms of highway safety”.*
- 6.56 Given the proposal constitutes a major development, with potential of causing a wider implication on the local highway network, Kent County Council as the Local Highway Authority has been consulted, the application is also accompanied by a Transport Statement (TS).

- 6.57 The TS compares the previous use and specifically traffic generation and vehicle movements against the proposed scheme. The data within the TS suggests that there would be a net reduction in vehicle movements when compared to the proposed development.
- 6.58 In regard to the access, it is proposed to utilise the existing access from the A26 Maidstone Road. Drawing number 2022/6404/001 Rev P4 illustrates visibility of 2.4m x 151.4m north of access to the carriageway centre line on Maidstone Road (in accordance with DMRB minimum standards). The land within the visibility splay is within the applicant's control. It is material to note that the existing access has served 55 student accommodation and the adjacent agricultural fields in the past. It is also noted that the applicant has proactively engaged with KCC prior to the submission of the application.
- 6.59 In response, KCC Highways raise no objection to the proposal subject to conditions relating to the submission of a construction management plan, which will include the following:
- (a) Routing of construction and delivery vehicles to / from site.
 - (b) Parking and turning areas for construction and delivery vehicles and site personnel, which may require supporting vehicle tracking/swept paths.
 - (c) Timing of deliveries, avoiding network and school peaks where possible.
 - (d) Provision of wheel washing facilities.
 - (e) Measures to prevent the discharge of surface water onto the highway.
 - (f) Temporary traffic management / signage.
- 6.60 Together with conditions relating to:
- The 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;
 - Provision and permanent retention of the vehicle loading/unloading and turning facilities shown on the submitted plans prior to the use of the site commencing.
 - Provision and permanent retention of the cycle parking facilities shown on the submitted plans prior to the use of the site commencing.
 - Completion and maintenance of the access shown on the submitted plans prior to the use of the site commencing.
 - Provision and maintenance of the visibility splays shown on the submitted plans with no obstructions over 1.05 metres above carriageway level within the splays, or 0.6 metres where a footway crosses the access, prior to the use of the site commencing.
- 6.61 Turning next to parking, Kent County Council's Parking Standards (January 2025) sets out that for 1 and 2 bed houses, within a suburban area, 1 space is required per unit and in regard to 3 bed houses 2 spaces are required per unit. In this case each

unit will be provided with 2 allocated parking spaces and electric charging points. On site refuse storage is provided and shown on the site plan and would be conditioned to be provided prior to the occupation of the first dwelling.

- 6.62 On this basis the development would not result in an unacceptable impact on highway safety and the residual cumulative impacts on the road network would not be severe. It would therefore not conflict in with Policy SQ8 of the MDE DPD or paragraphs 115-118 of the NPPF.

Assessment on Neighbour Amenity

- 6.63 Policy CP24 of the Tonbridge and Malling Borough Core Strategy requires that all development must be well designed and respect the site and its surroundings. It outlines that development by virtue of its design which would be detrimental to amenity will not be permitted.

- 6.64 Paragraph 135 (f) of the NPPF advises that:

“Planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users”.

- 6.65 The nearest residential dwellings are those located to the north/northwest within Grove Close some 165m from the nearest proposed dwelling. To the south are farm buildings in connection with Grove Farm. Given the significant distances involved, the proposal would not harm neighbour amenity and as such accords with Policy CP24 of the Tonbridge and Malling Borough Core Strategy and the aims of the NPPF.

Biodiversity and Ecology

- 6.66 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. 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.
- 6.67 Policy NE2 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 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. 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.

- 6.68 The application is accompanied by a Preliminary Ecological Appraisal Part 1 and Part 2, BNG report, Biodiversity Gain Plan, Biodiversity metric calculation, and Biodiversity credit details.
- 6.69 KCC Ecological Advice Service initially reviewed the submitted information and subsequently confirmed that additional information was required prior to the determination of the application in relation to BNG assessment and the potential for Great Crest Newt and owls to be present. Further information was submitted in relation to owls (EAS Ltd letter dated 4 June 2025).
- 6.70 KCC in their subsequent response note that they are satisfied, with the exception of GCN, that sufficient information has been submitted to determine the planning application. However, in regard to GCN whilst no further information has been received, KCC Ecology reviewed the submitted information in more detail and now accept that this matter can be addressed within a site wide ecological mitigation strategy. Due to the habitat creation proposed, KCC are satisfied that appropriate mitigation can be implemented if required. If permission is forthcoming, then a condition is suggested that prior to works commencing on site an ecological mitigation strategy must be submitted to the LPA for written approval. It must include the following:
- Preliminary ecological appraisal
 - Recommended species surveys
 - Overview of mitigation required
 - Detailed methodology to implement mitigation
 - Timings of works
 - Details of any licences required.
- 6.71 Turning next 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.
- 6.72 Under the Environment Act 2021, all planning applications for major development (unless exempt), will have to deliver at least a 10% biodiversity net gain. Having reviewed the proposal and submitted documents, KCC Ecology consider this application to fall under mandatory biodiversity net gain.
- 6.73 A statutory BNG metric has been submitted that shows over 10% can be achieved through the creation of a large area of scrub within the south of the site. KCC advise that if this area becomes dense scrub it will not be usable as recreational space for residents. Therefore, KCC advise that TMBC must be satisfied that this is

appropriate. The application includes a separate open space communal area to the north west of the site and therefore officers are satisfied that the onsite BNG is achievable. If permission is forthcoming, then KCC suggest a condition will be required for a Landscape and Ecological Management Plan (LEMP) to be submitted prior any habitat creation works taking place together with a further condition relating to lighting.

- 6.74 To conclude on ecology and biodiversity, subject to conditions it is considered that the development proposal accords with Local Policies, NE2, NE3 and the NPPF.

Flooding / Drainage

- 6.75 Paragraph 170 of the NPPF sets out the “inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere”.
- 6.76 Developments 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”.
- 6.77 Policy SQ5 (Water Supply and Quality) MDE DPD expects all development to ensure adequate water and sewerage infrastructure is present or can be provided to meet future needs without compromising the quality and supply of services for existing users. Planning permission will only be granted for development which increases the demand for off-site water and sewerage infrastructure where: a) sufficient capacity already exists; or b) extra capacity can be provided in time to serve the development
- 6.78 The majority of the site is located within flood zone 1, however, due to the site location adjacent to the lake, a very small part of the western/southern boundary falls within flood zones 2 and 3.
- 6.79 The application is accompanied by a Drainage Strategy (eas Ltd dated May 2025). This sets out that the proposed development will change the extent of impermeable areas and it will be necessary to incorporate Sustainable Drainage System (SuDS) measures to ensure that surface water leaving the site would not exceed the Greenfield flow rate. Foul drainage from the proposed development will need to be treated and disposed of on site (as existing) as there is no public foul sewer within practicable reach. This report provides an evaluation of the SuDS options available in

respect of the site and an outline strategy for drainage of foul and surface water arising from the proposed development.

- 6.80 KCC Local Lead Flood Authority initial response required clarification on areas within the Drainage Strategy. An updated drainage strategy was subsequently submitted. However, whilst the principles of the drainage strategy are accepted by KCC LLFA they noted that the proposal is for a full planning permission and highlighted the lack of consistency between the drainage strategy and wider site plans for the development, as well as the limited level of detail provided to demonstrate the drainage strategy can be adequately accommodated within the proposed layout.
- 6.81 Notwithstanding the above, KCC LLFA go on to acknowledge that as the principles are acceptable, technical matters for the drainage scheme could be dealt with via conditions as such should permission be granted conditions have been suggested. These include a pre-commencement condition for detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority based upon the Drainage Strategy dated May 2025 by Environmental Assessment Services Limited.
- 6.82 In terms of foul drainage, the Council's Environmental Health Protection Officer notes that a package treatment plant is proposed to be used to deal with the foul water drainage installed for this development. Whilst connecting to mains drainage is the preferred option, as highlighted within the drainage strategy, there is no public foul sewer within practicable reach. Therefore, foul drainage from the proposed development will need to be treated and disposed of on-site (as existing). Details in relation to the package treatment plant can be secured via a suitably worded condition.
- 6.83 The site is also located near to the Internal Drainage District (IDD) of the Upper Medway Internal Drainage Board (IDB) and is within the Board's watershed catchment (meaning water from the site will eventually enter the IDD); therefore, the Board's Byelaws apply. Whilst the Board's regulatory process (as set out under the Land Drainage Act 1991 and the Board's Byelaws) is separate from planning, the ability to implement a planning permission may be dependent on the granting of any required Land Drainage Consents.
- 6.84 The Board has reviewed the documents submitted in support of the above planning application. Officers have noted works, which require Land Drainage Consent from the Board and an informative is suggested to bring this to the attention of the applicant should permission be granted.

Contaminated Land

- 6.85 Paragraph 196 of the NPPF states that planning policies and decisions should ensure that:

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

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

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

6.86 Paragraph 197 makes clear that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

6.87 The application is supported by a Preliminary Contamination Risk Assessment, (Environmental Assessment Services Ltd, April 2022. The Council's Environmental Health Protection Officer has reviewed the Preliminary Contamination Risk Assessment and notes the report presents the findings of a desk study and site walkover. It adequately reviews the history and environmental setting of the site. Potential sources of contamination have been identified which require further investigation. These include the use of road plantings as a surface cover, historic farm activities, and potential asbestos containing materials within the buildings. Standard contamination conditions are therefore recommended should permission be forthcoming.

Archaeological Matters

6.88 The site lies within an area of potential associated with activity from the prehistoric period onwards. The application is not accompanied by any archaeological evidence, and no comments have been received from the KCC Heritage Conservation Officer. However, due to the site's location and potential a standard condition is suggested.

Noise

6.89 Due to the location of the development adjacent to the A26 (Maidstone Road) a Noise Impact Assessment (Anderson Acoustics April 2025) has submitted with the application. The Council's Environmental Health Protection officer has reviewed the Noise Impact Assessment, which considers the noise environment of the site and makes acoustic design recommendations. The report's contents have been assessed and it is advised a condition be placed requiring noise mitigation measures (including mechanical ventilation with heat recovery system and protection of amenity areas) to be incorporated into the development prior to first habitation that are no worse acoustically than that laid out in Anderson Acoustics report and that these details are provided to the local planning authority at the time.

Open Space

- 6.90 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.
- 6.91 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.
- 6.92 The proposal seeks to erect 17 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.
- 6.93 Amenity space is provided for each dwelling, and the application also proposes a communal open space area comprising 1603sqm.
- 6.94 Open space should, in the first instance, be provided on the development site. If provision on-site or off-site is not feasible, contributions should be sought to enhance relevant existing open spaces.
- Children's play space in the form of a LAP, LEAP and a contribution towards a MUGA should be provided on site and details should be provided and meet the latest British standards.
 - LAPs and LEAPs should be fenced off as per guidance if they are located close to roads
 - Contributions sought for this development should total £45,728
- 6.95 Open space demand generated by the development 2175 (net, sq. m):
- 6.96 In accordance with the methodology and sequential approach outlined in Annex D to the MDE DPD, and taking into account onsite provision of Amenity Open Space, initial consideration should be given to further on-site provision in areas of quantitative deficiency, though given the nature of the development proposal it is presumed that this may not be feasible. If provision is not made on-site, consideration should then be given to the developer providing off-site open space in accordance with the quantity standards set out in Policy Annex OS3 (translated to a standard of open space per person in Figure 4 in Annex D to the MDE DPD).

Parks & Gardens – £14,668

Amenity Green Spaces – N/A

Outdoor Sports Facilities - £27,278

Children's and Young People's Play Areas - £3582

Natural and Semi Natural Green Spaces – N/A

6.97 If provision is not made on or off-site, a sum total contribution of £45,728 should be sought. In this case whilst there is some open space provision to be provided on site the proposed vision does not meet the required contribution and falls short by 572 sqm. Therefore, offsite contributions would be required in this case.

Developer Contributions/Planning Obligations (other than Affordable Housing)

6.98 Policy CP25 of the Core Strategy requires new development to “*incorporate the infrastructure required as a result of the scheme or make provision for financial contributions and/or land to secure such infrastructure or service provision at the time it is needed, by means of conditions or a planning obligation*”.

6.99 Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests as set out in paragraph 122 of the CIL Regulations 2010 (as amended). These state that obligations must be

1. necessary to make the development acceptable in planning terms;
2. directly related to the development; and
3. fairly and reasonably related in scale and kind to the development.

6.100 Paragraph 58 of the NPPF reflects this statutory requirement.

6.101 Requests for financial contributions towards open space as set out above are required. The request for these contributions meets the relevant policy tests and would need to be secured through the legal agreement.

6.102 KCC Strategic Development and Place (The County Council) has assessed the implications of this proposal in terms of the delivery of its community services and is of the opinion that it will have an additional impact on the delivery of its services. These impacts will require mitigation, either through the direct provision of infrastructure or the payment of an appropriate financial contribution.

6.103 These contributions (as set out in the statutory responses above) relate to:

Secondary Education	£95,982.23
Secondary Land	£81,361.49
SEND	£9,517.11
Community Learning and Skills	£581.57
Integrated Children's services	£1,258.85
Library	£1,064.71
Adult Social Care	£3,074.96

Waste	£3,300.21
Total	£195.141.13

- 6.104 As set out above the application is accompanied by a FVA, based on Scenario 1 – with a nil BLV it is considered that the development would achieve a net profit of £244,808.00. This would be sufficient to provide both the required open space contribution and the developer contributions required by KCC (Combined figure for both contributions £240,869.13).
- 6.105 The applicant is willing to pay these contributions, and these would be secured via a S106 along site the affordable housing mechanism that if the development is not built up to structural slab level within 12 months from the date of the S106, an updated FVA will be required to be submitted and independently reviewed.
- 6.106 However, notwithstanding the above the applicant has offered a 'one off fixed' financial contribution (i.e not index linked) of £307k. This would mean that after the developer contributions as set out above, there would be £66,130.87 surplus to contribute to affordable housing. Should this be an option to members then this could be secured via a Section 106 agreement and would run alongside the suggest mechanism for affordable housing that if the development is not built up to structural slab level within 12 months from the date of the S106, an updated FVA will be required to be submitted and independently reviewed.

Other Matters

- 6.107 Officers are aware that due to the location of the site, the site is heavily dependent on a motor vehicle. However, the site is PDL and as such any future use, whether that is residential or commercial the reliance on a motor vehicle would not change.

Public right of way.

- 6.108 Public Right of Way MR363 lays to the south of the proposed development. KCC Public Right of Way and Access Service team have reviewed the application and confirms that the Public Right of Way appears to be unaffected by the proposal.
- 6.109 No objection is therefore raised subject to an informative that no works can be undertaken on the Public Right of Way.

Public Sector Equality Duty – Equality Act 2010

- 6.110 Section 149 of the Equality Act 2010 introduced the Public Sector Equality Duty (PSED), which came into force in April 2011. This duty requires public authorities, including the Council, to have due regard to the need to:
- Eliminate unlawful discrimination, harassment, and victimisation;

- Advance equality of opportunity between people who share a protected characteristic and those who do not; and
- Foster good relations between people who share a protected characteristic and those who do not.

6.111 In the context of planning, equalities considerations are embedded throughout the planning process. This begins with the formulation and adoption of planning policies at the national, strategic, and local levels, including any supplementary planning guidance. These policies are subject to statutory processes that include assessments of their impacts on protected groups.

6.112 For individual development proposals, further consideration is given to the potential equality impacts where relevant. In this case, all relevant policies from the Tonbridge and Malling Development Plan and the National Planning Policy Framework (NPPF) have been considered in the assessment of the application. These policies have been subject to equality impact assessments during their adoption, in accordance with the Equality Act 2010 and prior legalisation and the Council's obligations under the PSED.

6.113 Accordingly, the adopted planning Framework used in the assessment of this application is considered to reflect and support the needs of individuals with protected characteristics, as defined by the Equality Act 2010 and previous legislation. These characteristics include: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

6.114 The Local Planning Authority can confirm that the application of local and national planning policies in the determination of this planning application has been carried out with due regard to the provisions of the Equality Act 2010.

6.115 In conclusion, it is considered that Tonbridge and Malling Borough Council has had due regard to its duties under Section 149 of the Equality Act 2010 in the assessment of this application and the recommendations set out in this report

Planning Balance

6.116 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 housing.

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

6.118 The proposal would be appropriate development under Paragraph 153 (NPPF) utilising PDL and proposing a development which would not cause sustainable

harm to openness of the Green Belt, (also having regard to footnote 55 NPPF) and as such there would be no strong reason to refuse the proposal under paragraph 11 d i) in relation protected areas.

- 6.119 Therefore paragraph 11 d ii) is engaged and planning permission 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 taking 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.
- 6.120 In weighing the proposal in the overall planning balance required by 11 d (ii) the Council acknowledged that the scheme would provide 17 dwellings, and as such would support the overarching aims of national and local planning policy in relation to housing delivery, this attracts substantial weight in favour of the proposal even acknowledging that the provision is only for 17 dwellings.
- 6.121 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.
- 6.122 It has been concluded that that there would be no unacceptable impact on character and appearance, neighbouring properties, ecology, highway safety or parking provision subject to conditions and the proposal would be acceptable in terms of design and living conditions. However, absence of harm in relation to these matters is not a benefit of the scheme, but rather, weighs neutrally in the planning balance.

Conclusion of Planning Balance

- 6.123 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 subject to conditions and S106 agreement either:

option a - affordable housing mechanism and developer contributions (indexed linked) or

option b - affordable housing mechanism and a one off fixed financial contribution of £307k and conditions.

7. Recommendation: Approval subject to S106 and conditions

Heads and Terms Section 106

Option 1: - Affordable housing mechanism

(suggested/wording along the lines of)

If the Development is not built to Structural Slab Level within 12 (twelve) months of the date of this Deed the Owner shall notify the Council in writing within 5 (five) Working Days.

Should the Owner have notified the Council pursuant to paragraph 1.1 of this schedule they shall then submit the Viability Information to the Council within 40 (forty) Working Days of such notification.

The Council shall assess the Viability Information submitted pursuant to paragraph 1 of this Schedule and shall apply the following formula to calculating whether or not the Developer Contribution is payable.

Developer Contributions Open space and KCC contributions (index linked)

Parks & Gardens	£14,668
Outdoor Sports Facilities	£27,278
Children's and Young People's Play Areas	£3582
Total	<u>£45,728</u>

Secondary Education	£95,982.23
Secondary Land	£81,361.49
SEND	£9,517.11
Community Learning and Skills	£581.57
Integrated Children's services	£1,258.85
Library	£1,064.71
Adult Social Care	£3,074.96
Waste	£3,300.21
Total	<u>£195,141.13</u>

Option 2: - Affordable housing mechanism

(Suggested wording along the lines of)

If the Development is not built to Structural Slab Level within 12 (twelve) months of the date of this Deed the Owner shall notify the Council in writing within 5 (five) Working Days.

Should the Owner have notified the Council pursuant to paragraph 1.1 of this schedule they shall then submit the Viability Information to the Council within 40 (forty) Working Days of such notification.

The Council shall assess the Viability Information submitted pursuant to paragraph 1 of this Schedule and shall apply the following formula to calculating whether or not the Developer Contribution is payable.

One Off Fixed Contributions of £307k (not index linked) payable at commencement of development (or to be agreed)

Open space and KCC contributions

Parks & Gardens	£14,668
Outdoor Sports Facilities	£27,278
Children's and Young People's Play Areas	£3582
Total	£45,728

Secondary Education	£95,982.23
Secondary Land	£81,361.49
SEND	£9,517.11
Community Learning and Skills	£581.57
Integrated Children's services	£1,258.85
Library	£1,064.71
Adult Social Care	£3,074.96
Waste	£3,300.21
Total	£195,141.13

Surplus – towards affordable housing. £66,130.87

Conditions

Standard Conditions

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

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

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

Location Plan produced 10 April 2025

Site Location Plan – Drawing no. P093 – 001

Existing Site Plan – Drawing no. P093 - 002

Proposed Site Plan - Drawing no. P093 – 101

Block A Existing Plans and Elevations - Drawing no. P093 – A – 001

Block A Proposed Plans and Elevations - Drawing no. P093 – A – 301
Block B Existing Plans and Elevations - Drawing no. P093 – B – 001
Block B Proposed Plans and Elevations - Drawing no. P093 – B – 301
Block C Existing Plans and Elevations - Drawing no. P093 – C – 001
Block C Proposed Plans and Elevations - Drawing no. P093 – C – 301
Block D Existing Plans and Elevations - Drawing no. P093 – D – 001
Block D Proposed Plans and Elevations - Drawing no. P093 – D – 301
Construction Management and logistics plan by Opus Magnum dated March 2025
Preliminary Ecological Appraisal by eas Ltd dated April 2022 updated Feb 2025
Preliminary bird/owl survey by eas Ltd dated 4 June 2025
Biodiversity Net Gain by eas Ltd dated February 2025
BNG Baseline habitat map drawing no. P093 – 101
BNG Habitat plan existing drawing no. P093 – 002
BNG Metric calculations
Drainage Strategy by eas Ltd dated May 2025
Noise Impact Assessment by Anderson Acoustics dated April 2025
Tree Planting Report received 7 April 2025
Material Schedule received 7 April 2025
Design and Access Statement by Magnum Opus dated March 2025
Preliminary Contamination Risk Assessment by eas Ltd dated April 2022
Addendum Transport Statement document ref 2022/6406/TN03 Dated February 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.

3. All Materials used externally shall accord with the approved plans document reference Material Schedule received 7 April 2025 .

Reason: In the interest of visual amenity.

Highways

4. No development hereby permitted shall commence unless and until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include the following:

- (a) Routing of construction and delivery vehicles to / from site
- (b) Parking and turning areas for construction and delivery vehicles and site personnel
- (c) Timing of deliveries

- (d) Provision of wheel washing facilities prior to commencement of works on site and for the duration of the construction.
- (e) Temporary traffic management / signage
- (f) Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction.
- (g) Provision of measures to prevent the discharge of surface water onto the highway.
- (h) Provision of measures to prevent the discharge of surface water onto the highway.

The Construction Management Plan shall thereafter be implemented in accordance with the approved details throughout the course of construction.

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

5. Prior to the first occupation of the dwellings the access shall be implemented as shown on the approved plans. No obstructions over 1.05 metres above carriageway level within the splays, or 0.6 metres where a footway crosses the access, and thereafter retained and maintained as such.

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

6. Material used for the first 5 metres of the access from the edge of the highway shall comprise of a bound surface.

Reason; In the interest pedestrian and driver safety in compliance with policy DC4 of the Managing Development and the Environment DPD.

7. The development hereby approved shall not be occupied until the parking spaces shown on the Proposed Site Plan - Drawing no. P093 – 101 have been constructed for use of the proposed dwellings. Thereafter shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to these reserved parking space without the approval of the Local Planning Authority.

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

8. Prior to the first occupation the secure cycle storage and refuse facilities as shown on the Proposed Site Plan - Drawing no. P093 – 101 hereby approved shall be provide and thereafter maintained and retained.

Reason: To facilitate the collection of refuse and to ensure that cycle storage is provided and maintained in accordance with the Council's adopted standards

9. Prior to the first occupation the provision and permanent retention of the turning facilities shown on the submitted plans shall be provided and thereafter maintained and retained.

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

Contamination

10. No development shall take place other than as required as part of any relevant approved site investigation works until the following have been submitted to and approved by the Local Planning Authority: a) results of the site investigations (including any necessary intrusive investigations) and a risk assessment of the degree and nature of any contamination on site and the impact on human health, controlled waters and the wider environment. These results shall include a detailed remediation method statement informed by the site investigation results and associated risk assessment, which details how the site will be made suitable for its approved end use through removal or mitigation measures. The method statement must include details of all works to be undertaken, proposed remediation objectives, remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site cannot be determined as Contaminated Land as defined under Part 2A of the Environmental Protection Act 1990 (or as otherwise amended).

The submitted scheme shall include details of arrangements for responding to any discovery of unforeseen contamination during the undertaking hereby permitted. Such arrangements shall include a requirement to notify the Local Planning Authority in writing of the presence of any such unforeseen contamination along with a timetable of works to be undertaken to make the site suitable for its approved end use. (b) prior to the commencement of the development the relevant approved remediation scheme shall be carried out as approved. The Local Planning Authority should be given a minimum of two weeks written notification of the commencement of the remediation scheme works.

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

11. Following completion of the approved remediation method statement, and prior to the first occupation of the development, a relevant verification report that scientifically and technically demonstrates the effectiveness and completion of the remediation scheme at above and below ground level shall be submitted for the information of the Local Planning Authority. The report shall be undertaken in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. Where it is identified that further remediation works are necessary, details and a timetable of those works shall be submitted to the Local Planning Authority for written approval and shall be fully implemented as approved.

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

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

Landscaping

12. Prior to the first occupation of the development hereby approved a scheme of landscaping and boundary treatment shall be submitted to and approved by the Local Planning authority. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following occupation of the buildings or the completion of the development, whichever is the earlier. Any trees or shrubs removed, dying, being seriously damaged or diseased within 10 years of planting shall be replaced in the next planting season with trees or shrubs of similar size and species. Any boundary fences or walls or similar structures as may be approved shall be erected before first occupation of the building to which they relate.

Reason: In the interests of visual amenity

Archaeological Heritage

13. 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 and recorded.

Drainage/Flooding

14. Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the Drainage Strategy dated May 2025 by Environmental Assessment Services Limited. The submitted scheme shall demonstrate compliance with the required technical standards at the time of submission and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to

and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

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

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

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

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

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

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 182 of the National Planning Policy Framework.

Ecology

16. Prior to works commencing on site an ecological mitigation strategy must be submitted to the LPA for written approval. It must include the following:

- Preliminary ecological appraisal
- Recommended species surveys
- Overview of mitigation required

- Detailed methodology to implement mitigation
- Timings of works
- Details of any licences required.

The plan must be implemented as approved.

Reason: To protect habitats and species that may be present onsite from adverse impacts during construction.

17. No habitat creation works shall take place (including any ground works, site, or vegetation clearance), until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority addressing:

1. Creation and enhancement of habitats in accordance with the Biodiversity Gain Plan;
2. Management of on-site habitats to achieve biodiversity net gain in accordance with the Biodiversity Gain Plan;

The content of the LEMP shall include the following:

- a) Habitat Plan
- b) Purpose and conservation objectives for the proposed ecological design works;
- c) Detailed design(s) to achieve stated objectives;
- d) Extent and location/area of proposed works on appropriate scale maps and plans;
- e) Type and source of materials to be used where appropriate, e.g. native species of local provenance;
- f) Timetable for implementation, including the planting of the screening hedgerow prior to first use of the development;
- g) Persons responsible for implementing the works;
- h) Details of initial aftercare;
- i) Aims and objectives of management;
- j) Prescriptions for management actions;
- k) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- l) Habitat monitoring provisions; and
- m) Details of the individual, body or organisation(s) responsible for implementation of the plan.

The LEMP shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: To protect habitats and species that may be present onsite from adverse impacts during construction.

18. Prior to occupation, a lighting plan 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.

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 avoid adverse impacts on nocturnal species, including bats and owls.

Noise

19. None of the dwellings shall be occupied until full details of acoustic protection and mechanical ventilation for the dwellings have been submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented prior to the first occupation of any of the units to which it relates and shall be retained at all times thereafter.

The report should also specifically detail any mitigation/attenuation measures needed to attain the abovementioned noise levels which shall be fully implemented as approved.

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

Foul Drainage

20. Development shall not begin in any phase until details of the package treatment plant to deal with foul water for the site has been submitted to (and approved in writing by) the local planning authority. The drainage scheme shall be implemented in accordance with the approved details

Reason: To ensure the development is served by satisfactory arrangements for the disposal of foul waste and to ensure ongoing efficiency of the drainage provisions.

Informatives

1. 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).

If the onsite habitat includes irreplaceable habitat, the Biodiversity Gain Plan must include:

- Information about steps taken or to be taken to minimise any adverse effect of the development on the habitat.
- Information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

2. The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat are minimized and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits

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

4. 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 recommended that no bonfires are undertaken at the site.

5. 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.

6. 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.

7. Your attention is drawn to the comments within Upper Medway Internal Drainage Board response dated 20 June 2025.

8. The Borough Council will need to create new street name(s) for this development together with a new street numbering scheme. To discuss the arrangements for the allocation of new street names and numbers you are asked to write to Street Naming

& Numbering, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or to email to addresses@tmbc.gov.uk. To avoid difficulties, for first occupiers, you are advised to do this as soon as possible and, in any event, not less than one month before the new properties are ready for occupation.

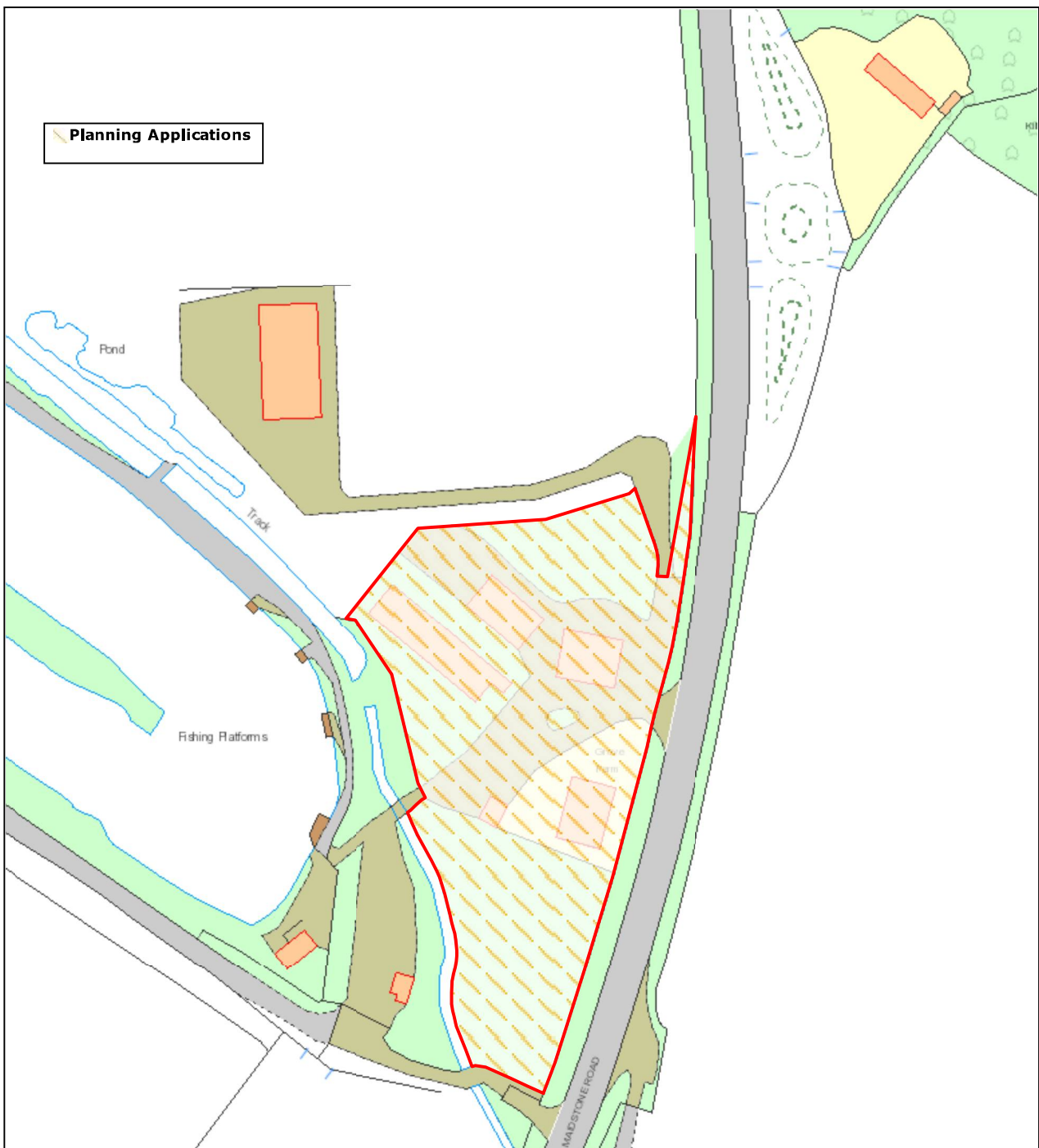
9. The granting of planning permission confers no other permission or consent on the applicant. It is therefore important to advise the applicant that no works can be undertaken on a Public Right of Way without the express consent of the Highways Authority. In cases of doubt the applicant should be advised 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.

10. Your attention is drawn to the comments within TMBC Waste Services response dated 10 April 2025.

Contact: Susan Field



Planning Applications 25/00656/PA

Scale: 1:1250



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Date: 18/11/2025 11:48

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Area 2 Planning Committee

Planning Appeal Decisions for Area 2

TMBC Ref	25/00430/PA
PINS Ref	APP/H2265/D/25/3369031
Site Address	5, Legge Lane, Birling, West Malling, ME19 5JH
Description of development	Proposed Single storey side extension, conversion of double garage to study
Delegated or Committee Decision	Delegated
Appeal Outcome	Dismissed – 22.09.2025
Appeal Decision	Reference: APP/H2265/D/25/3369031
Costs Awarded	N/A
Cost Decision	N/A

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

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

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