

TONBRIDGE & MALLING BOROUGH COUNCIL



EXECUTIVE SERVICES

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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

4 December 2024

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

Dear Sir/Madam

Your attendance is requested at an extraordinary meeting of the Area 2 Planning Committee to be held in Council Chamber, Gibson Drive, Kings Hill on Thursday, 12th December, 2024 **commencing at 6.30 pm.**

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

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

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 \(tmbc.gov.uk\)](http://tmbc.gov.uk).

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

4. Glossary and Supplementary Matters 9 - 16

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

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

Decisions to be taken by the Committee

5. TM/21/00881/OA - MOD Land South of Discovery Drive, Kings Hill, West Malling 17 - 64

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

6. TM/24/00927/PA - Rotary House, Norman Road, West Malling 65 - 86

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

7. 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

8. Exclusion of Press and Public 87 - 88

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

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.

MEMBERSHIP

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

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

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

GUIDANCE ON HOW MEETINGS WILL BE CONDUCTED

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

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

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

Attendance:

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

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

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

Ground Rules:

The meeting will operate under the following ground rules:

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

For those Members participating online:

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

Voting:

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

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

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GLOSSARY of Abbreviations used in reports to Area Planning Committees

A

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

B

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

C

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

D

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

E

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

F

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

G

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

H

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

I

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

K

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

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

L

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

M

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

MWLP Minerals & Waste Local Plan

N

NE Natural England

NMA Non Material Amendment (application suffix)

NPPF National Planning Policy Framework

O

OA Outline Application (application suffix)

OAEA Outline Application with Environment Impact Assessment (application suffix)

OAX Outline Application: Extension of Time

OB106D Details pursuant to S106 obligation (application suffix)

OB106M Modify S106 obligation by agreement (application suffix)

OB106V Vary S106 obligation (application suffix)

OB106X Discharge S106 obligation (application suffix)

P

PC Parish Council

PD Permitted Development

PD4D Permitted development - change of use flexible 2 year

PDL Previously Developed Land

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

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

PDV18 Permitted development - miscellaneous development (application suffix)

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

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

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

R

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

S

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

T

TC	Town Council
TCAAP	Tonbridge Town Centre Area Action Plan

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

U

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

W

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

(Version 2/2021)

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Kings Hill
Kings Hill

TM/21/00881/OA

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

Location: MOD Land South of Discovery Drive Kings Hill West Malling
Kent

Go to: [Recommendation](#)

1. Description:

- 1.1 Outline planning permission is sought, with all matters reserved for future considerations with the exception of Access for the following development.
- Residential development of up to 65 dwellings/units
 - 40% affordable housing including first homes and a policy compliant tenure and dwelling mix
 - Designated on-site Children's playspace (subject final location on site)
 - Ecological enhancements and adherence to 10% biodiversity net gain on site or off-site via biodiversity mitigation to enhance cumulative high ecology standards.
 - Enhanced Landscaping, sustainable drainage systems and protection of on-site species and adjacent ancient woodland
 - Footpath and cycle pathways within the site and connecting to adjacent Clearheart Lane.
 - Site accesses and associated highway improvements including enlarged passing points from Clearheart Lane to the site.
- 1.2 As the application is in Outline form, this report deals with the principle of the development, the general quantum of development and the means of Access only. All other matters are Reserved for future consideration.
- 1.3 However, whilst all matters are Reserved (except access) ecology and biodiversity considerations have been examined and assessed in greater detail and are expanded on within the Committee Report.
- 1.4 Some of the submitted plans identify key development parameters against which future Reserved Matters applications will be considered and as such they would constitute 'approved plans' should consent be forthcoming, whereas other plans are submitted purely for informative purposes to illustrate how a scheme could be developed.

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

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

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

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

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

- Arboricultural Impact Assessment (Dated November 2021)
- Archaeological Desk-Based Assessment (Dated 9th June 2020)
- Bat Survey Report (Dated September 2022)
- FRA (28917-RP-SU-001 - Dated 8 March 2021)
- PEA Preliminary ecological appraisal (Dated November 2018)
- Protected Species Surveys (Dated August 2019)
- Transport Statement (Dated March 2024 prepared by Evoke)
- Access Mitigation Measures & Drawings R-19-0045-02 Dated 22 August 2024 by Evoke.
- Biodiversity Net Gain assessment (Date February 2024)
- Ecological assessment (Dated September 2022)
- Sustainability Statement and Energy Strategy (Ref Dated March 2021 Ref 28917-RP-SU-001)
- Phase 1 Contaminated Land & UXO Assessment (Dated 18/10/2023 – Ref 8917-HML-XX-XX-RP-U-870001)

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

2. Reason for reporting to Committee:

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

3. The Site:

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

Kings Hill - (65 dwellings), subject to: provision of affordable housing in accordance with Core Policy CP17(1); provision of on-site open playing space or a contribution to the provision or enhancement of open space provision elsewhere at Kings Hill; provision of footpaths, cycle and bridle routes linking with existing and/or proposed routes at Kings Hill; a contribution towards community and leisure facilities at Kings Hill; the retention of important trees on the site and a substantial woodland margin adjacent to the countryside to preserve the landscape setting and screen the development area; and any necessary mitigation measures identified as a result of an archaeological assessment

- 3.2 The site is formed of an area of land located between Clearheart Lane to the north, Teston Road to the east and Ketrige Lane (Track) to the south. The site is undeveloped land with mature and sapling trees, within the settlement confines of Kings Hill.
- 3.3 Historically the site formed part of the airfield and evidence of hardstanding on site points to the previous use. Confirmed on the 5th of July 2021, three individual and seven groups of trees and one woodland area benefit from a Tree Preservation Orders (TPOs) designation. There are also parcels of ancient woodlands to the north, east and south of the site. The ancient woodland to the south of the site (known as Cattering Wood) covers a substantial area and is designated as a local wildlife site.
- 3.4 Allotments and playing fields are located to the north-east of the boundary site. Kings Hill urban development is located to the west of the site. The east side site boundary joins the Metropolitan Green Belt. The Wateringbury Conservation Area lies about 175m to the south.
- 3.5 The site is also within the Archaeological Notification Area and falls within Flood Zone 1.

4. Planning History (relevant):

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

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

TM/13/00697/TRD – Application not proceeded with - 13 March 2013
Coppice twin stem Chestnut close to boundary with 3 Bancroft Lane

TM/18/02950/FINF - Information letter – 22 February 2019
Residential development

TM/20/01401/OA – Application withdrawn - 11 January 2021
Outline Application: development of up to 65 dwellings (all matters reserved other than access).

TM/21/00876/PPA - 24 March 2021
In relation to full planning permission for the development of up to 65 dwellings (all matters reserved other than access).

5. Consultees:

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

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

5.3 Kings Hill Parish Council:

5.4 Objected on the following grounds:

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

- Negative impact on the tranquillity of the area

5.5 Teston Parish Council:

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

5.6 Environment Agency:

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

5.7 Kent Fire & Rescue Service:

(First response 16 April 2021 – with emergency access) Considered the off-site access requirements of the Fire & Rescue Service have been met. On-site access is a requirement of the Building Regulations 2010 Volume 1 and 2 and must be complied with to the satisfaction of the Building Control Authority who will consult with the Fire and Rescue Service once a Building Regulations application has been submitted if required.

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

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

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

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

5.8 Waste Services:

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

5.9 Housing Services:

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

5.10 Environmental Protection:

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

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

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

5.11 KCC Flood and Water Management:

Raised no objection to the principle of the proposed development and recommended the following:

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

- Conditions for details of surface water drainage should be imposed.

5.12 KCC Ecology:

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

(Second response 13 December 2022) The ecological officer is satisfied with the ecological surveys which provide a reasonable understanding of the ecological interest of the site with an Ancient Woodland buffer of 15m proposed. AW buffer area should be provided between the proposed dwellings and gardens.

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

As part of the mitigation strategy the following is proposed:

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

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

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

(Fourth response 11 October 2024) Broad recommendations for the mitigation has been provided within the report but a detailed mitigation strategy has not been submitted to demonstrate that the outlined mitigation can be implemented nor does the submitted site plan clearly demonstrate that the onsite mitigation requirements will be carried out.

As part of the mitigation strategy the following is proposed:

- Phased clearance of vegetation within the site to avoid impacts on breeding birds and Dormouse
- Reptile translocation to the south of the site.
- Retention/enhancement of a 10m woodland buffer along the eastern boundary
- Retention/enhancement of the woodland to the north and south of the site
- Active management of the woodland to the south of the site
- Sensitive lighting strategy
- Creation of woodland habitat

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

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

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

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

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

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

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

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

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

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

5.13 KCC Highway

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

To address concerns about the impact upon ancient woodland the applicant has relocated the proposed emergency access further east. Swept path analysis demonstrating the suitability of the route for a fire appliance has also been provided. Provision of the emergency access also continues to meet KCC Highways access requirements as set out in the Kent Design Guide Update subject to re-consultation minus the emergency access.

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

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

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

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

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

5.14 KCC Strategic Development and Place

The proposed development will have an additional impact on the delivery of its services, which will require mitigation either through the direct provision of infrastructure or the payment of an appropriate financial contribution.

Distribution of financial contribution:

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

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

5.16 Kent Police:

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

5.17 Woodland Trust:

Objected due to the potential damage and deterioration of Cattering Wood, a designated ancient semi-natural woodland area, proximity of the proposed development to the ancient woodland and the proposed access road through the buffer zone. The woodland trust recognise the implementation of a 15m buffer zone in line with the Natural England's advice is policy compliant.

However, the Woodland Trust consider the buffer area is not a sufficient size for the proposed development and recommended a buffer zone of at least 30m and

planting and screening of the buffer zone before the construction of the development. In particular, their concerns are:

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

5.18 Officers note the retained objection, but the development meets Natural England requirements and the 15 metre buffer zone would form part of a planning condition.

5.19 Other/Third party representations

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

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

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

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

5.24 Comments are summarised are as followed:

- The proposal would harm the nearby ancient woodland and habitats of protected species including adders, slow worms and bats.
- The proposal would result in loss of the green amenity space enjoyed by the locals and would be detrimental to the countryside character of the area and well being of the locals.
- The site is outside the established boundary of Kings Hill and functions as a landscape buffer which has been used for recreational purposes between the estate and the surrounding farmland.

- The proposal is not eco-friendly and would result in cramped form of development and an overdevelopment of the site.
- The proposed development would be out of character with the area and does not provide adequate open space.
- The proposal would harm the protected trees and replacement trees would not be enough to mitigate the net biodiversity gain resulting from the proposed development.
- Many of the trees which would be removed to allow the development are healthy.
- If the proposal is allowed, it would set a precedent for applications to develop the remaining natural spaces around Kings Hill.
- Impact on air quality
- Impact on traffic volume
- Noise and disturbance from the construction and potential structural damage to the nearby residential properties during the construction.
- The bridleway crosses the heart of the proposed construction access and movements of construction vehicles on this access could cause serious injury to the users of the bridleway.
- The widening of the road would result in the loss of the grass verge and trees.
- The existing shops and infrastructure including schools and health care facilities cannot support the proposed development.
- The proposed accesses are inadequate and the residential street is narrow.
- The proposed access over the bridle path is inappropriate and dangerous. The bridle path is used by the pedestrians, cyclists and horses.
- The additional emergency access and vehicular access would endanger traffic safety and the road infrastructure from Clearheart Lane does not support this application. Clearheart Lane is an already congested narrow road (unlike described in the Transport Statement as a generous carriageway). Increased traffic on Clearwater Lane will pose an increased safety risk to children walking to Discovery Primary School.
- The proposed emergency access is not suitable for the access of the emergency vehicles.
- The main access crosses the by-way used by pupils
- The proposed parking provision would not be adequate and there would be more strain on road parking.
- This area was not included in the initial Rouse master plan.

- The proposal would not benefit the local community and would disrupt the local amenity.
- The reasons for refusal in the appeal decision (ref: ref APP /H2265/A/00/1053813) are relevant to this application.
- The reasons for refusal in 2011 are still relevant (ref: 10/03340/OA).
- If permission is granted a buffer tree zone should be retained to allow a wildlife corridor and a large ragstone wall built to prevent any motorised access to Teston Road.
- The proposal poses a threat of surface water flooding.
- The proposal does not contribute to the carbon emission target.
- The proposal would result in loss of light, outlook/visual amenity and privacy to the neighbouring properties.
- The proposal is not being seen in the context of the other bordering developments.
- Bluebells cover this area and are protected under the Wildlife & Countryside Act 1981 and the landowner is prohibited from removing bluebells from this land;
- There would be light and noise pollution from the proposed development.
- People who love living here will be forced to move due to the area changing, and becoming more populated.
- Attract more people which could lead to the area changing for the worse which could add more crime, ASB and un-wanted behaviour etc.
- The development proposed is on land categorised historically as brownfield but has long since been reclaimed by nature including trees and wildlife that the state of nature report 2019 found is in decline.
- The development proposed is on land categorised historically as brownfield but has long since been reclaimed by nature including trees and wildlife that the state of nature report 2019 found is in decline.
- Kings Hill is a vast development, which has struggling infrastructure and lack of resources. Schools are over subscribed, GP surgery is over-stretched and there is no secondary school.
- The transport/location report also creates the impression that there is transport to The Malling school. Whilst this is true for older children it's no longer a reality for younger children as we are so over populated we are no longer in the catchment area for our closest secondary school.

6. Policy Context:

- 6.1 As Members are aware, the Council cannot currently demonstrate an up-to-date five-year supply of housing when measured against its objectively assessed need (OAN). The Council's latest published housing land supply position as of December 2023 is 4.36 years. This means that the presumption in favour of sustainable development as set out at paragraph 11 of the Framework (2023) must be applied. For decision taking this means:
- c) approving development proposals that accord with an up-to-date development plan without delay; or
 - d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 6.2 The development plan must remain the starting point for determining any planning application (as statutorily required by s38 (6) of the Planning and Compulsory Purchase Act 2006) which is overtly reiterated at paragraph 12 of the NPPF, the consequence of this must be an exercise to establish conformity between the development plan and the policies contained within the Framework as a whole and thus ultimately the acceptability of the scheme for determination.
- 6.3 The site is adjacent to the Green Belt and Ancient Woodland, however these designations are not directly on the site and therefore paragraph 11 (i) is not engaged in this case. The proposal would now be assessed on paragraph 11 (ii) and whether any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 6.4 The site is a designated site as identified in the of the Development Land Allocations DPD (April 2008) know as Policy H1 (f – Kings Hill) a matter which is to be attributed significant positive weight in the overall planning balance.
- 6.5 Core Strategy (adopted September 2007)
- Policy CP1 Sustainable Development – whilst parts of this policy have diminished weight or no weight, the policy overall is still to be afforded weight in the determination of applications.
- Policy CP2 Sustainable Transport – This policy is deemed to be consistent

with the Framework and therefore afforded full weight.

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

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

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

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

Policy SQ1 Landscape and Townscape Protection and Enhancement

Policy CC3 Sustainable Drainage

Policy NE2 Habitat Networks

Policy NE3 Impact of Development on Biodiversity

Policy OS3 Open Space Standards

Policy OS4 Provision of Open Space

Policy NE4 Trees, hedgerows and woodland

Policy SQ1 Landscape and Townscape Protection and Enhancement

Policy SQ8 Road Safety

7. Determining factors:

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

7.2 Material considerations are:

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

Matters Reserved

- Layout, design and massing
- Dwelling Mix
- Standard of accommodation
- Impact on neighbouring amenity
- Parking and Refuse
- Landscaping
- Energy efficiency and carbon reduction

Principle of Residential Development

- 7.3 The site, as stated above, is an allocated development site as stipulated in the adopted Managing Development and the Environment Development Plan Document DPD (2008) and therefore the principle of residential development holds significant support in policy terms. Subject to material planning matters outside of those to be Reserved, the principle of development is established. The site is considered sustainable and represents an urban extension to Kings Hill on a site with partial historic brownfield use.

Access to the site from Clearheart Lane

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

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

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

- 7.15 In the unlikely event that the access becomes blocked for any reason, the additional width at the point of access would further help to maintain a clear route for emergency vehicles as the carriage would and footway will provide a 10m useable width (extending to 13.7m including the verge as noted above).
- 7.16 In view of KFRS comments which confirm they are satisfied with the mitigation measure proposed, no sustainable objection is raised by KCC Highways.
- 7.17 Turning to the access itself. Paragraph 115 of the NPPF (2023) states:
“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”
- 7.18 Policy SQ8 states that development proposals will only be permitted where they would not significantly harm Highway safety.
- 7.19 The development scheme proposes to access the site via an extension of the existing residential road known as ‘Clearheart Lane.’ Clearheart Lane is currently an unclassified non through road that serves a limited number of dwellings. It is acknowledged that the proposals will have the effect of changing the function of the road to a through road serving a larger residential development.
- 7.20 KCC Highways have analysed the scheme and note Clearheart Lane currently accommodates two-way traffic flow, with Kent Design Guide compliant carriageway widths and dedicated footways on both sides of the road.
- 7.21 Regarding the existing impact and relationship with Clearheart Lane, KCC make the following suggestion, *“whilst on street parking is not the subject of any existing restrictions it is noted that the majority of dwellings that have frontage access, or front onto Clearheart Lane, benefit from dedicated off street parking provision. This helps to limit the levels of on-street parking that could be otherwise obstructive to the two-way flow of traffic. There is therefore no technical basis on which KCC Highways could sustain an objection to Clearheart Lane being used as a route of access to the development”*.
- 7.22 Officers are aware of significant objections to the development on grounds of increased traffic and concerns at the narrow approach on Clearheart Lane when cars are parked on the road. Notwithstanding the forementioned comments, Clearheart Lane currently provides access to approximately 40 dwellings, which would mean the new access road will provide access to roughly 105 dwellings, should consent be granted. Secondly, Clearheart Lane is a modest/moderate length (approximately 110 metres) with crossover access to properties to the side allowing cars to park while awaiting vehicles passing. Kent County Council Highways are mindful of the linear alignment of Clearheart Lane providing good levels of forward visibility thereby allowing intervisibility between vehicles

travelling in opposing directions, as well as of any vehicles that are parked on street. This carries relevance when assessing the likely impact on overall levels of highway safety at this location.

Sustainable Travel

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

Traffic Impact

- 7.24 The proposal is anticipated to generate 36 two-way movements (combined arrivals and departures) in the AM (08:00) and PM (17:00-18:00) peak hours. These forecasts have been derived through reference to the trip generation figures previously accepted by KCC Highways as part of the Kings Hill Phase 3 applications, which were granted on appeal. This approach is considered acceptable to KCC Highways and ensures a suitability robust assessment.
- 7.25 To establish the likely routing patterns of the traffic generated by the development the applicant has made use of a real time journey planner to identify travel times to the adjacent local highway network (A228 and Ashton Way), via different routes. The applicant's analysis has concluded that there is likely to be a relatively even split of traffic across the local network via the different available routes, given the minimal differences in journey times. KCC Highways consider this to be a reasonable conclusion.
- 7.26 Given the limited number of predicted movements resulting from the development, KCC Highways do not require further detailed junction capacity assessments in this instance based on anticipated dispersed nature of movements. Accordingly, KCC Highways do not consider that the impact of the proposals on the local highway network, in capacity terms, could be reasonably described as 'severe.'

Parking, servicing and Turning

- 7.27 The parking layout and servicing regime are reserved matters and as such turning and swept path analysis within the site at this stage is purely for illustrative guidance and is subject to future review. The submitted Transport Statement provides swept path analysis in Appendix D for vehicles based on

cars (R-19-0045-004) and a refuse truck and fire tender vehicle (Ref R-19-0045-012). Based on the submitted information there is sufficient access and turning circles for the proposed layout.

Summary of access considerations

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

Biodiversity impacts and mitigation:

- 7.29 Para. 180 of the NPPF (2023) seeks to, d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 7.30 Para 186 of the NPPF states *“if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused”*.
- 7.31 Para 188 of the NPPF states *“the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site”*.
- 7.32 The applicant submitted an updated Biodiversity Net gain assessment (dated February 2024 prepared by Greenspace ecological solutions, ref Report Number J20981_P7_BNG_Rev D).
- 7.33 To achieve a biodiversity net gain on site and move towards the requirement for 10% net gain as part of new regulations, the biodiversity report identified a site in the applicant’s ownership for off-site biodiversity mitigation. Based on table 1 in para 4.1.4 of the biodiversity report, applying enhancements to the mitigation land off-site, a 10.38% increase in Biodiversity can be realised.
- 7.34 For clarification purposes the use of 2.0 biodiversity metric to measure net gain is retained for the development on account the submission being made prior to the Environment Act (2021) becoming Law on the 12th February 2024. Government guidance which states that there is no mandatory requirement to demonstrate BNG through use of a Metric for applications submitted prior to 12th February 2024, KCC Ecology and TMBC officers agreed in principle to allow continued use of the Metric 2 in this instance.
- 7.35 In addition, major planning applications submitted prior to the 12th of February 2024 are not retrospectively applied the 10% net gain. As such, the site does

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

- 7.36 The off-site habitat creation and enhancements are set out in detail within Para 5.3.1 of the biodiversity report and are acceptable to officers and KCC ecology. In the interest of transparency, the initial site for off-mitigation advanced in the Biodiversity Net Gain document provided in 2022 by the applicant has been discounted and removed from consideration.
- 7.37 The new mitigation site is an area located circa 5.32km southwest of the site boundary (as presented in Figure 6 of the report) and is currently 2,62ha of cropland used for cereal production but this is not a reason to object to the site.
- 7.38 The LPA does not object to the utilisation of the identified mitigation site within the Tonbridge and Malling Borough area and such an off-site mitigation method is permitted by the NPPF (2023). Notwithstanding the mitigation site identified and the 10.38% biodiversity net gain report, officers expect the potential on-site enhancements to be exhausted prior to the mitigation site being considered in isolation. As such, planning conditions and legal obligations shall be drafted whereby a site first approach first is conducted in partnership with the reserved matters and landscaping details to seek to provide the 10% net gain on site. In the instance whereby 10% on site cannot be realised the off-site option shall be engaged and are secured by planning condition.

Impacts on Ecology and trees:

- 7.39 Policy NE2 of the MDE DPD requires that the biodiversity of the Borough and in particular priority habitats, species and features, will be protected, conserved and enhanced.
- 7.40 Policy NE3 states that development that would adversely affect biodiversity or the value of wildlife habitats across the Borough will only be permitted if appropriate mitigation and/or compensation measures are provided which would result in overall enhancement. It goes on to state that proposals for development must make provision for the retention of the habitat and protection of its wildlife links. Opportunities to maximise the creation of new corridors and improve permeability and ecological conservation value will be sought.
- 7.41 Policy NE4 further sets out that the extent of tree cover and the hedgerow network should be maintained and enhanced. Provision should be made for the creation of new woodland and hedgerows, especially indigenous broad-leaved species, at appropriate locations to support and enhance the Green Infrastructure Network.
- 7.42 The site is not subject to any ecological designations and therefore is not subject to any over protection. The submitted ecological assessment report

(Dated September 2022 prepared by Green Space ecology, ref J20981_P7_Rev A) confirms the outputs of the report below,

- Moderate bat activity (the Bat survey confirmed no roosting bats)
- Nesting and breeding birds
- Dormice are present on site and best practice and mitigation strategies required to ensure that the favourable conservation status of dormice is maintained on the site post development, have been provided. hazel dormouse *Muscardinus avellanarius* is listed as a European protected species under the Conservation of Habitats and Species Regulation 2017 (as amended) (Habitats Regulations 2017),
- Good population of slow-worms and low population of lizards, the maintenance of their welfare during construction shall be safe guarded.
- The likelihood of other protected and otherwise notable species to occur within the site is considered negligible and no further surveys for other protected species are required.

7.43 Para 5.3.35 of the ecological report confirms “field signs of hazel dormice were identified within the Site during the survey. Dormice are therefore ‘Present’ within the Site. Para 6.3.39 of the report expands on the test for dormouse stating “Nest tube surveys are intended to only detect presence/likely absence of dormice and do not permit an estimation of population densities. Therefore, under current guidelines, once presence has been confirmed further surveys are not required, so long as the on-site habitats are contiguous and similar in structure to those within which animals have been recorded (Bright *et al.*, 2006). As the majority of suitable habitat within the site is similar (broadleaved woodland, tall ruderal vegetation and scrub) and the dormouse surveys (GES, 2019) recorded the presence of dormice within the woodland, it can be assumed that dormice are present throughout”. The introduction of the 15m buffer zone not only protects the ancient woodland from encroachment but provides comparable habitat to the existing and therefore an appropriate site for species migration.

7.44 The presence of Dormouse would require a European Protected Species Mitigation (EPSM) licence issued by Natural England prior to their removal. Para 6.3.40 of the ecological report provides details on the methodology of mitigation measures but would be subject to the requirement of a licence. The EPSM licence application can only be submitted once full planning permission has been granted and all wildlife related planning conditions (that can be released) have been discharged.

7.45 The planning application was accompanied by a Bat survey Report (Dated September 2022 Prepared by Green Space ecological solutions) inclusive of an initial bat survey and two emergence survey dates 13th June and 5th July 2022. Para 4.1.1 of the bat survey confirmed “no bats emerged from any of the trees during the bat emergence surveys conducted at the site”. Para 4.1.2 stated “bat

activity recorded across the site identified an assemblage of just four bat species, namely common pipistrelle *Pipistrellus pipistrellus*, soprano pipistrelle *Pipistrelles pygmaeus*, noctule *Nyctalus noctula* and bat/s from the genus *Myotis*. The identified bats were foraging and commuting between habitats and roosts outside the site perimeter.

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

Impact on trees

- 7.47 The applicant submitted an Arboricultural Impact Assessment (AIA) (Dated November 2021) and a Parameter Plan 4 - Landscape (Ref CL-16410-01-009 Rev H) outlining the impact on the tree numbers on site. The site is subject to Tree Preservation Order (TPO), reference number 21/00005/TPO.
- 7.48 The AIA report states *“the majority of the trees to be removed are within the ‘C’ category due to their size or ailing condition. However, a total of three B category trees will be removed to enable the proposed development. The trees to be removed can be replaced as part of a landscape scheme for the site”*. The two (2) existing category A trees of greatest merit shall remain and will form part of the outline open space for the site. The retention of the two (2) cat A trees is welcome and their inclusion in open space areas would create a sustainable long term healthy environment for the trees.
- 7.49 The only tree within the existing TPO which is shown for removal on the plan included within the submitted Arboricultural Report is a suppressed Cherry (T43 of the survey included within the submitted Arboricultural Report). All other TPO trees are shown for retention.
- 7.50 Overall, a total of 30 individual trees would be felled and one group of trees removed. Officers consider the site to be capable of replacing the tree loss in a 1-2 ratio (2 trees to replace everyone lost) and as such a robust landscaping condition shall be applied to any approval.
- 7.51 The Council’s Tree Officer concludes the loss of the TPO tree is justified and Reserved Matters should include a detailed scheme of hard and soft landscaping, levels information, details of services in relation to the retained trees and a finalised site specific arboricultural method statement with tree protection plan. Relevant planning conditions are therefore applied to the outline recommendation.

Assessment of Affordable Housing:

7.52 The Affordable Housing Protocol November (2021) lays out in detail the Council's position on Affordable Housing Delivery in the interim period before a new Local Plan is adopted. This protocol is used for Development Management decisions. In addition, policy CP17 sets out a 40% affordable housing requirement, with a 70/30 split between affordable housing for rent and other affordable housing tenures. This site is therefore required to provide 40% affordable housing in accordance with Council policy, along with the provision of First Homes that is now also a policy requirement.

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

Land Contamination:

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

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

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

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

7.58 Paragraph 190 of the NPPF (2023) makes clear that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rest with the developer and/or landowner. The application is supported by a Phase 1 Ground Conditions Assessment including a Tier 1 Preliminary Risk Assessment, prepared by Hilson and Moron which are considered to adequately review the history and environmental setting of the site. The Phase 1 report adequately reviews the history and environmental setting of the site.

7.59 The applicant supplied a Phase 1 Contaminated Land & UXO Assessment (Dated 18/10/2023 – Ref 8917-HML-XX-XX-RP-U-870001) following initial concerns raised by the Environment Agency due to the potential risks to groundwater from the development. Groundwater is particularly sensitive in this area due to the location upon a principal aquifer. In addition, the area has a military history that is likely to have retained contaminants in the ground.

7.60 Table 6.4 of the submitted phase 1 report confirms the potential risk of contaminants which do extend to moderate risk. The Environment Agency have reviewed the report and noted the mitigation and works required to secure the site for residential development. The EA have subsequently removed their initial objection subject to planning conditions to secure the site in the event of contamination being located on site can be satisfactorily managed.

7.61 The TMBC Environmental Protection Officer has confirmed contamination across the wider Kings Hill development is typical for a brownfield site with most locations covered in a layer of made ground with hotspots of heavy metals, hydrocarbons and asbestos. Risks associated with ground contamination on these sites has been successfully remediated (typically through localised excavation or use of a clean cover layer) to allow for residential development with no unacceptable risks to groundwater identified.

Flood risk and Sustainable drainage

7.62 Paragraph 173 of the NPPF (2023) states that “When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

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

b) the development is appropriately flood resistant and resilient;

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

d) any residual risk can be safely managed; and

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

7.63 Para 175 NPPF (2023) expects “Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:

a) take account of advice from the lead local flood authority;

b) have appropriate proposed minimum operational standards;

c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and

d) where possible, provide multifunctional benefits”.

7.64 Policy CP10 states, “within the floodplain development should first seek to make use of areas at no or low risk to flooding before areas at higher risk, where this is possible and compatible with other policies aimed at achieving a sustainable pattern of development”.

7.65 The planning application is supported by an FRA (Flood risk assessment) prepared by Hilson Moran confirming the site is located in flood zone 1. The FRA report states, *“as a consequence of the proposal, the rate of runoff generated from the site will be maintained at the current greenfield rate. The effect of the proposed development on the volume and rate of surface runoff generated is, therefore, deemed to be of neutral/negligible significance”*.

7.66 Policy seeks development to maintain greenfield run off rates based on the individual specifics and therefore robust conditions shall be applied to secure and ensure a Sustainable Drainage System (SuDS) for the proposed development will be designed to accommodate all additional runoff from the site for rainfall events up to and including the 1 in 100-year event including a 40% allowance for climate change and infiltrate it to ground. In addition, the drainage system should allow for methods that limit subterranean storage and rely on above ground methods and are integral to the core design elements of the site.

7.67 The FRA report considers the proposed high sustainable drainage and states that *“consequently there would be no requirement for additional discharges to the surface water sewer system, and thus no mitigation is deemed necessary. The residual risk from surface water sewer flooding is therefore deemed to be of neutral/negligible significance”*. Officers note the conclusions provided are premeditated on the drainage scheme achieving the required greenfield run off rates and therefore the conditions attached to consent are designed to ensure the scope of drainage design scheme.

Foul sewage

7.68 The submitted FRA report states “it is anticipated that the proposed development will lead to an increase in foul water discharges from the site. The developer will augment the existing sewer infrastructure accordingly. In accordance with Building Regulations Part G, it is also anticipated that low water consumption appliances (low-flow taps and white goods) will be introduced throughout the proposed redevelopment, which will minimise foul water discharges”.

7.69 The site is in close proximity to the sewage network on Clearheart Lane and therefore the physical connection is not considered to be physically difficult. The capacity of the sewage system will need to be considered and shall form a condition of the development scheme.

Reserved matters:

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

Layout, design and massing:

- 7.71 Para 131 NPPF states *“the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”*.
- 7.72 Policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007 requires that all development must be well designed and of a high quality in terms of detailing and use of appropriate materials, and must through its scale, layout, sitting, character and appearance be designed to respect the site and its surroundings.
- 7.73 The applicant has submitted an indicative masterplan for illustrative purposes to reflect how the layout could achieve 65 dwelling units. The final layout and design of the development would be subject to further detailed submissions and reviews by officers, and at this stage further consideration is not applicable.

Dwelling Mix

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

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

Standard of accommodation

- 7.75 The proposed dwellings would all be required to meet and where possible exceed the national floorspace standards and provide sufficient and usable external amenity area.

- 7.76 The final layout and interaction between buildings coupled with areas of communal playspace will need to consider the overall impact on the future living conditions of residents.

Impact on neighbouring amenity

- 7.77 The illustrative masterplan shows that the development site is largely divorced from adjacent development to the north and no development is applicable on the east, west and southern boundaries. Elements of the development of houses on the north boundary of the site have the potential to have some impact on neighbouring properties but as the final layout is to be finalised by reserved matters, areas of conflict if applicable can be addressed subject to the outline scheme being consented.

Parking and refuse

- 7.78 The planning application is in outline form (with all matters reserved other than access) and therefore the parking arrangements and internal highway layout will be further analysed as part of the reserved matters stage, taking into account the relevant KCC guidance. Notwithstanding the final detail of car parking on site to be confirmed, the illustrative masterplan outlines broadly how parking would be provided. Resident and visitor parking provision would need to accord with IGN3 (Parking standards
- 7.79 The development site would be capable of providing sufficient parking for the outline 65 units and potentially highly efficient layouts could be applied to the site to improve efficiency of land use and prevent unnecessary dead space.

Landscaping

- 7.80 Para 135 of the NPPF (2023) seeks to ensure development is “*visually attractive as a result of good architecture, layout and appropriate and effective landscaping*”. Significant loss of trees and biodiversity would result from the development and therefore a robust replacement landscape strategy would be expected by officers and shall be conditioned accordingly.
- 7.81 Para 136 of the NPPF (2023) states “*trees make an important contribution to the character and quality of urban environments and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly planted trees, and that existing trees are retained wherever possible*”. The internal layout has high potential to replace the lost trees and create an attractive environment reflective of surrounding residential areas largely typified by tree lined streets.

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

Energy efficiency and carbon reduction:

7.83 Adopted policies CC1 and CC2 within the MDE DPD are considered to be out of-date following the Housing Standards Review in 2014 which removed the voluntary Code for Sustainable Homes and made it clear that local plans should not be setting any additional local technical standards or requirements relating to energy performance of new dwellings. These matters are within the remit of the national Building Regulations. Notwithstanding that, paragraphs 158 to 164 of the NPPF (2023) are relevant and demonstrate that the Council's Climate Change Strategy can be considered a material consideration.

7.84 The applicant has provided a sustainability Statement and energy Strategy (prepared by Hilson and Moran, dated March 2021) outlining the energy hierarchy and consideration of the future development against the criteria.

7.85 The report demonstrates a range of sustainable design considerations including heat pumps and photovoltaic panels on ideally south facing roofs. Officers would seek additional sustainable products and methods will be incorporated within the scheme, including:

- Reducing greenhouse gas emissions from energy use (Fabric First);
- Provision of renewable energy (10% energy demand met by renewables);
- Sustainable transport measures, including electric vehicle charging provision;
- Efficient use of materials;
- Reduction in water consumption; and
- Provision of green infrastructure and ecological protection and enhancement measures.

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

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

Other Material matters:

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

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

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

Developer Contributions:

- 7.89 Regulation 122 of the CIL regulations (2010) set out the statutory framework for seeking planning obligations and states that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is
- 7.90 (a) necessary to make the development acceptable in planning terms;
(b) directly related to the development; and
(c) fairly and reasonably related in scale and kind to the development
- 7.91 Policy CP25 of the TMBCS states that:
1. Development will not be proposed in the LDF or permitted unless the service, transport and community infrastructure necessary to serve it is either available, or will be made available by the time it is needed. All development proposals must therefore either incorporate the infrastructure required as a result of the scheme, or make provision for financial contributions and/or land to secure such infrastructure or service provision at the time it is needed, by means of conditions or a planning obligation.
 2. Where development that causes material harm to a natural or historic resource is exceptionally justified, appropriate mitigation measures will be required to minimise or counteract any adverse impacts. Where the implementation of appropriate mitigation is still likely to result in a residual adverse impact then compensatory measures will be required.

7.92 KCC has advised that in order to mitigate the additional impact that the development would have on delivery of its community services, the payment of appropriate financial contributions is required, as follows (noting that this is based on the illustrative mix for proposal)

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

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

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

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

7.95 The final layout and landscape plan is Reserved Matter and therefore final contributions cannot be applied at this stage but would form wording in a s.106 legal agreement. In addition to the above, contributions to provision of footpaths, cycle and bridle routes linking with existing and/or proposed routes at Kings Hill shall be sought.

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

Planning Balance and conclusions:

7.97 Since the Council cannot demonstrate a five year housing land supply, the presumption in favour of sustainable development as set out at paragraph 11(d) of the Framework applies in this instance (the tilted balance). That means that

permission should be granted unless in this case there are adverse impacts of granting planning permission that would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

7.98 The proposed development would provide a policy compliant development of 65 residential dwellings, it would also

7.99 The proposed development would also provide 40% affordable housing on-site which would contribute to addressing a recognised need for affordable housing in the Borough.

7.100 Whilst there would be some change in character from the loss of previously open and partly wooded open space, the parameters of this outline scheme provide sufficient confidence that the development would be acceptably landscaped, such that the impacts are not deemed to be significantly harmful or adverse. Moreover, despite being an undeveloped parcel of land the application site is included within the urban area boundary of Kings Hill.

7.101 Officers apply significant weight to the designation of the site known as F2 (f) (Kings Hill) in the development Land Allocations DPD (adopted April 2008) and which is clearly identified as an established development site. Members will be aware of the need to deliver more housing including affordable housing in order to meet housing delivery targets. This proposed development would deliver a total of 65 homes 40% of which would comprise policy compliant affordable provision. In light of the presumption in favour of sustainable development and the tilted balance, this needs to be given significant weight.

8. Conclusion:

8.1 The site is an identified development site for 65 dwellings as stipulated and set out in the adopted site allocation DPD (2008) and therefore the principle of residential development is sound and holds significant support in policy terms. KCC Highways approve the access which is the only core matter not formally reserved and therefore the outline planning application is acceptable to officers.

8.2 The outline planning application is subject to robust planning conditions and a s106 legal agreement. The proposed design, massing and scale of development amongst other planning matters would be subject to further review by officer and committee members.

8.3 The outline development meets strategic overarching policies and would not result in demonstrable harm as per Para 11 of the NPPF (2023).

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

9.1 Approve planning permission subject to:

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

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

9.3 The following conditions:

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

Reason: No such approval has been given

2. Application for approval of the reserved matters in the first phase or first subphase of the development shall be made to the Local Planning Authority not later than three years from the date of this permission.

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

3. The development hereby permitted shall be begun either before the expiration of 3 years from the date of this permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved for the first phase or first sub-phase of the development, whichever is the later.

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

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

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

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

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

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

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

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

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

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

5. Site Levels

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

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

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

Highways/Transport/Parking

6. Prior to the commencement of any phase or sub-phase of the development which includes erection of buildings, details in accordance but subject to site specific changes, with the Kent Appendix 1 Design Guide IG3 shall be submitted to and approved in writing by the Local Planning Authority showing adequate resident and visitor parking and turning space for vehicles likely to be generated by that phase or sub-phase of the development. The approved areas of land shall be provided, surfaced and drained in accordance with details to be submitted to and approved in writing by the Local Planning Authority before the buildings constructed within that phase or sub-phase are occupied and shall be retained for the use of the occupiers of, and visitors to, the premises.

Thereafter, no permanent development, whether or not permitted by Town and Country Planning (General Permitted Development) Order 2015, shall be carried out on the land so shown (other than the erection of a private garage or garages) or in such a position as to preclude vehicular access to this reserved parking area.

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

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

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

8. Prior the commencement of any phase or sub-phase of the development a Construction Management Plan before the commencement of any development on site to include the following:
 - (a) Routing of construction and delivery vehicles to / from site
 - (b) Parking and turning areas for construction and delivery vehicles and site personnel
 - (c) Timing of deliveries
 - (d) Provision of wheel washing facilities prior to commencement of works on site and for the duration of the construction.
 - (e) Temporary traffic management / signage
 - (f) Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction.
 - (g) Provision of measures to prevent the discharge of surface water onto the highway

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

Drainage

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

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

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

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

11. Prior to development above slab level on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate the suitable modelled operation of the drainage system where the system

constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework.

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

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution

Archaeological

13. Prior to the commencement of development the applicant, or their agents or successors in title, will secure and implement:
 - i. archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
 - ii. further archaeological investigation, recording and reporting, determined by the results of the evaluation, in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority/

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

Contamination

14. No development approved by this planning permission shall commence until a strategy to deal with the potential risks associated with any contamination of the site has been submitted to, and approved in writing by, the Local Planning Authority. This strategy will include the following components:
 1. A site investigation scheme, based on the Phase 1 Contaminated Land & UXO Assessment (Dated 18/10/2023 – Ref 8917-HML-XX-XX-RP-U-870001) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

2. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

3. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

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

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

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

Reason: To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 174 of the National Planning Policy Framework (2023).

16. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site in line with paragraph 174 of the National Planning Policy Framework.

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

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants in line with paragraph 174 of the National Planning Policy Framework.

Trees

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

b) The development shall thereafter be implemented in accordance with details approved under this condition.

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

Hard and Soft Landscaping:

19. a) A scheme of hard and soft landscaping, including details of existing trees to be retained and size, species/cultivar, planting heights, densities and positions of any soft landscaping, shall be submitted to and agreed in writing by the Local Planning Authority before the development hereby permitted is commenced.

b) All work comprised in the approved scheme of landscaping shall be carried out before the end of the first planting and seeding season following occupation of any part of the buildings or completion of the development, whichever is sooner, or commencement of the use.

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

Reason: To ensure a satisfactory appearance to the development.

20. Tree protection and method statement:

a) No site works (including any temporary enabling works, site clearance and demolition) or development shall take place until a dimensioned tree protection plan in accordance with Section 5.5 and a site specific arboricultural method statement detailing precautions to minimise damage to trees, based on and expanding upon the principles raised within the "Arboricultural Impact Assessment and Method Statement, Revision D, A Report for Tregothnan Estate, November 2021" by Greenspace Ecological Solutions, including, but not limited to, finalised details relating to methodology, protection measures and precautions to be undertaken to minimise damage to trees during the

development works, installation of services and construction of new hard surfaces/landscaping works, details of tree work to be undertaken as part of the proposed development, phasing of the development works, and an auditable/audited system of arboricultural site monitoring and be in accordance with Section 6.1 of British Standard BS5837: 2012 (Trees in relation to design, demolition and construction - Recommendations) have been submitted to and approved in writing by the Local Planning Authority.

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

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

Biodiversity

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

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

The approved lighting plan shall thereafter be implemented as agreed.

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

22. No development shall commence which results in a decrease in bio-diversity levels on site when compared with existing baseline BNG calculations (as outlined in the submitted Biodiversity Net Gain - Dated **February/March 2024) at the site until either:

- (1) Biodiversity net gain has been secured via on-site biodiversity enhancements (using 2.0 metric) by way of introducing sufficient replacement biodiversity habitats to meet the councils target of a 10% net increase in biodiversity (see obligations) and has been confirmed in writing by the local planning authority: or

(2) The site specific off-site mitigation scheme (set out in the planning obligation) that accompanies this planning permission (as outlined Biodiversity Net Gain - Dated February/March 2024) has been implemented in accordance with the requirements set out in the planning obligation and local planning authority has given its written confirmation of the same.

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

23. Subject to condition 23 and the implementation of subpart (1), An Ecological Design Strategy (EDS) with the first detailed application, for the site shall be submitted to, and approved by, the local planning authority. The EDS will include the following:

- Overview of habitat creation and enhancements proposed
- Defined conservation objectives of the proposed works.
- Review of site potential and constraints.
- Detailed design(s) and/or working method(s) to achieve stated objectives.
- Extent and location/area of proposed works on appropriate scale maps and plans.
- Type and source of materials to be used where appropriate, e.g., native species of local provenance.
- Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- Details of those responsible for implementing the works and
- Details of initial aftercare.

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

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

24. Subject to the implementation of subpart (2) of condition 22, a detailed Ecological Mitigation Strategy with the first detailed application, and prior to the commencement of works (including site clearance), shall be submitted to, and approved by, the local planning authority. The plan must include the following:

- Updated ecological surveys
- Objectives of the proposed works
- Detailed design(s) and/or working method(s) necessary to achieve stated objectives.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28. Prior to the first occupation of the residential development, the 15m buffer zone between the ancient woodland to the north, south and west as illustrated on plan reference Parameter Plan 4 landscape (Ref CL-16410-01-009 Rev H) shall be defined and clearly laid out for the intended purpose of creating a buffer zone to the ancient woodland area. The final appearance of the buffer shall be subject to the written approval by the Local planning authority in accordance with the biodiversity net gain strategy and mitigation plan subject of conditions 22 of this outline planning approval.

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

Other Material Matters

Low carbon technology

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

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

Fibre connectivity infrastructure

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

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

Security

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

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

Materials

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

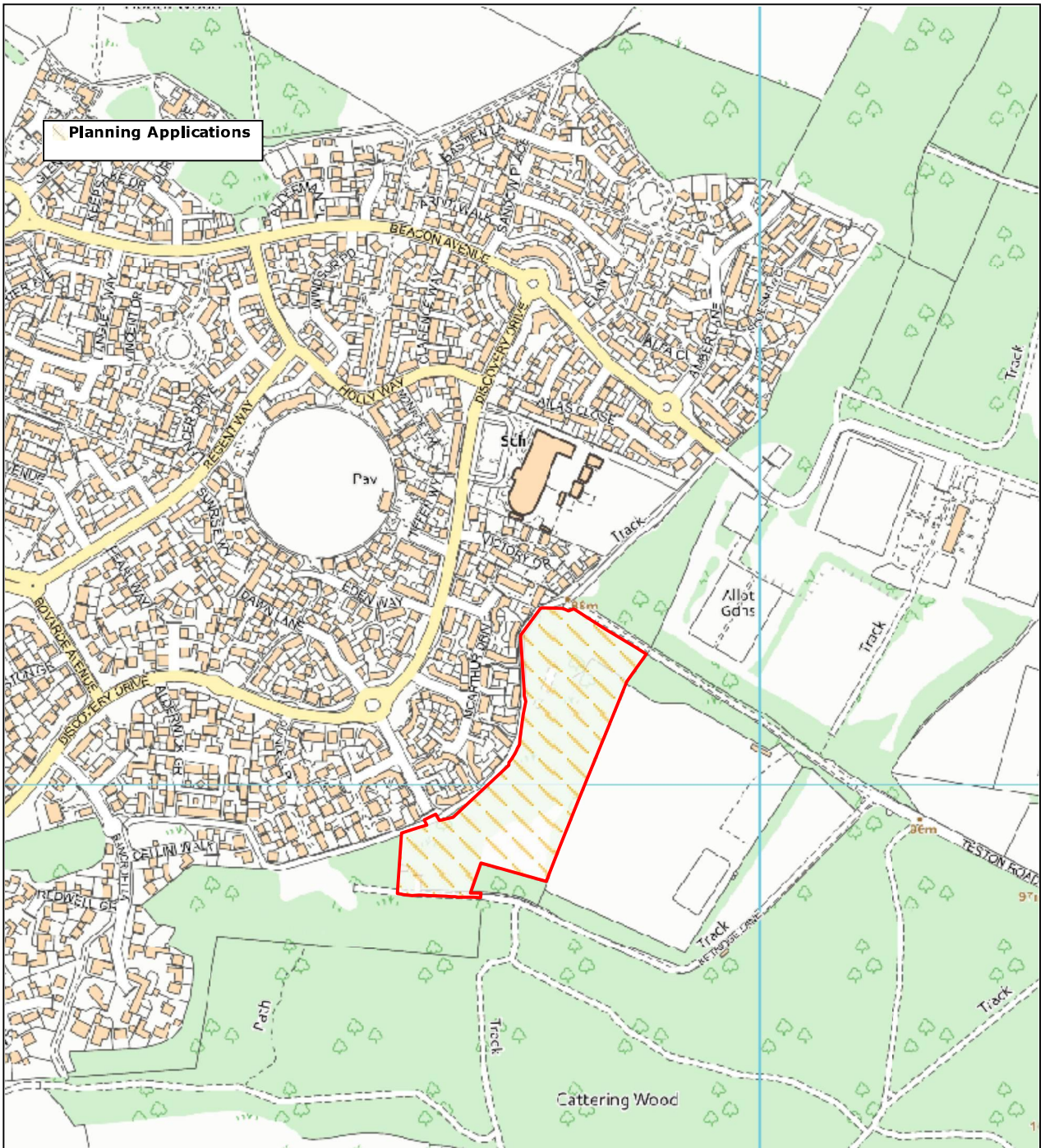
Reason: To ensure that the development does not harm the character and appearance of the area or the visual amenity of the locality.

Informatives

1. Site access is a requirement of the Building Regulations 2010 Volume 1 and 2 and must be complied with to the satisfaction of the Building Control Authority who will consult with the Fire and Rescue Service once a building Regulations Application has been submitted if required.
2. (European Protected Species) The applicant is reminded that, under the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended), it is an offence to: deliberately capture, disturb, injure, or kill; damage or destroy a breeding or resting place; deliberately obstructing access to a resting or sheltering place. Planning consent for a development does not provide a defence against prosecution under these acts. Ponds, other water bodies and vegetation, such as grassland, scrub, and woodland, and also brownfield sites. Where proposed activities might result in one or more of the above offences, it is possible to apply for an EPS mitigation licence from Natural England or the district licence. If a protected species are encountered during development, works must cease, and advice should be sought from a suitably qualified ecologist.
3. This permission does not purport to convey any legal right to undertake works or development on land outside the ownership of the applicant without the consent of the relevant landowners.
4. The Borough Council will need to create new street name(s) for this development together with a new street numbering scheme. To discuss the arrangements for the allocation of new street names and numbers you are asked to write to Street Naming & Numbering, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or to email to addresses@tmbc.gov.uk. To avoid difficulties, for first occupiers, you are advised to do this as soon as possible and, in any event, not less than one month before the new properties are ready for occupation.
5. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.
6. During the demolition and construction phases, the hours of noisy working (including deliveries) likely to affect nearby properties should be restricted to Monday to Friday 07:30 hours - 18:30 hours; Saturday 08:00 to 13:00 hours; with no such work on Sundays or Public Holidays.
7. Although it would not be possible at this stage under Environmental Health legislation to prohibit the disposal of waste by incineration, the use of bonfires

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

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Planning Applications 21/00881/OA

Scale: 1:5000



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



Date: 18/10/2024 10:59

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West Malling

TM/24/00927/PA

East Malling West Malling
And Offham

Location: ROTARY HOUSE NORMAN ROAD WEST MALLING ME19 6RL

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

Go to: [Recommendation](#)

1. Description of Proposal:

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

2. Reason for reporting to Committee:

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

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

2. The Site:

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

3. Planning History (relevant):

24/00673/PA

- Application remains under consideration

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

24/00460/PA -Application returned

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

22/01714/FL

Refuse - 05 July 2023

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

13/01464/FL

Application Not Proceeded With - 15 December 2014

Erection of a conservatory

12/02645/TPOC

Approved - 17 October 2012

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

04/02762/TPOC

Grant With Conditions - 09 September 2004

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

98/02129/ORM

ORM approved - 07 May 1999

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

96/01298/FL

Grant With Conditions - 28 October 1996

retention of existing day care centre

96/01057/FL

Grant With Conditions - 14 October 1996

extension to existing day care centre

95/50841/FL

Grant With Conditions - 10 October 1995

extensions to existing day care centre

93/01620/TP

Grant With Conditions - 26 March 1993

Trim one sycamore tree

90/10327/FUL

Grant With Conditions - 31 July 1990

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

85/10423/FUL

Refuse - 22 February 1985

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

4. Consultees:

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

4.2 Further comments include:

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

4.3 Neighbours: Total of 38 representations received.

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

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

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

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

4.5 Further comments: Confirmed no formal comments or objections.

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

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

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

4.9 The Highways Engineer also noted:

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

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

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

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

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

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

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

5. Determining Issues:

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

Policy Context

5.2 The relevant policy considerations are as follows:

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

- 5.3 Policy CP1 outlines the context for determining applications and the need for new development to result in a high quality sustainable environment which will be balanced against the need to protect and enhance the natural and built environment.
- 5.4 Policy CP2 states that development that is likely to generate a significant number of trips should be well located relative to transport routes, minimise the need to travel and make use of sustainable travel methods.
- 5.5 Policy CP3 identifies that National Green Belt policy will be applied where identified on the Local Plan map and will only be permitted if it is justified by very special circumstances.
- 5.6 Policy CP12 includes reference to conversions and changes of use being permitted within the confines of rural settlements, including West Malling.
- 5.7 Policy CP14 restricts development in the countryside to certain categories. Where development in the countryside is justified, the preference will be for re-use or redevelopment of existing buildings.
- 5.8 Policy CP24 states that all development must be well designed and of high quality in terms of detailing, scale, layout and appearance with the use of appropriate materials to respect the site and its surroundings.
- 5.9 Policy CP26 states that:

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

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

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

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

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

(c) the applicant has proved, to the satisfaction of the Council, that for the foreseeable future there is likely to be an absence of need or adequate support for the facility.

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

National Planning Policy Framework 2023

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

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

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

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

5.15 Paragraph 115 states: *“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*

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

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

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

Planning History

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

Impact on residential amenity

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

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

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

Highway Matters

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

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

Design and visual impact on the Conservation Area

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

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

Loss of community centre/Asset of Community Value

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

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

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

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

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

Impact on the Green Belt and countryside

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

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

Landscaping

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

Biodiversity Net Gain

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

Other Matters

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

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

Conclusion

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

6. Recommendation:

- 6.1 Approved subject to the following:

Conditions:

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

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

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

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

Transport Technical Note received 1.8.2024

Planning Statement received 5.8.2024

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

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

Reason: In the interests of highway safety.

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

b) All work comprised in the approved scheme of landscaping shall be carried out before the end of the first planting and seeding season following occupation of any part of the buildings or completion of the development, whichever is sooner, or commencement of the use.

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

Reason: To ensure a satisfactory appearance to the development.

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

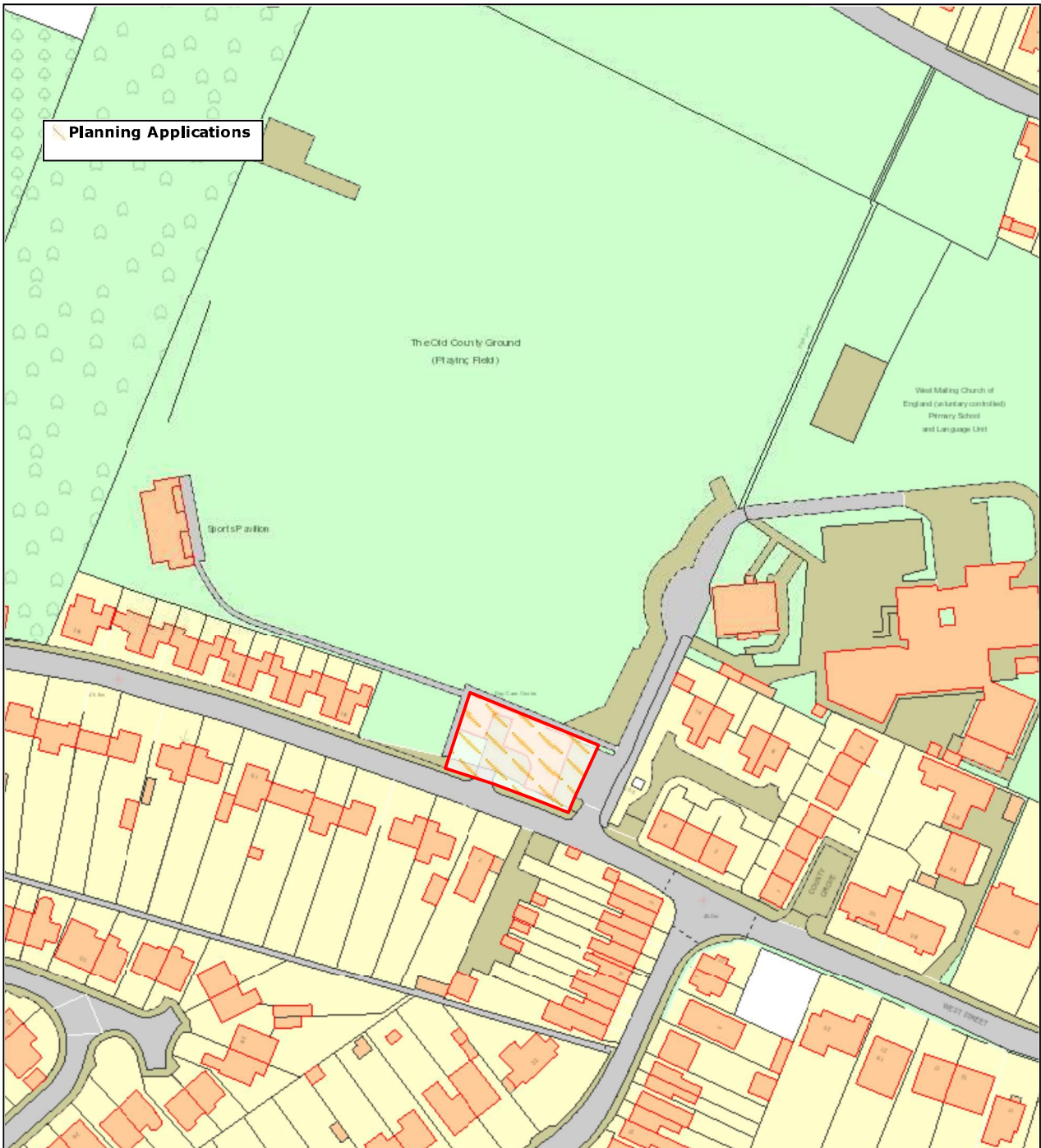
Reason: In the interests of the residential amenities of the occupants of nearby properties.

Informative:

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

Contact: Josh Kwok

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Planning Applications 24/00927/PA

Scale: 1:1250



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Date: 18/10/2024 11:05

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Agenda Item 8

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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