

Borough Green
Borough Green And
Long Mill

23 December 2016

TM/16/03763/FL

Proposal: Demolition of existing office building and the erection of 10 residential dwellings. Access from existing Quarry Hill Roundabout, provision of public open space, works associated with de-culverting and diversion of the watercourse, sustainable urban drainage systems; associated landscaping, infrastructure and earthworks

Location: Quarry House 81 Quarry Hill Road Borough Green Sevenoaks Kent TN15 8RW

Applicant: Crest Nicholson Eastern

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1. Description:

- 1.1 Planning permission is sought for the demolition of the existing office building and erection of 10 dwellings, consisting of 3 no. 2 bedroom dwellings and 7 no. 3 bedroom dwellings. No garages or other outbuildings are proposed in the scheme.
- 1.2 It is proposed to access the site from the existing Quarry Hill roundabout, using the existing access which also serves the adjacent doctor's surgery.
- 1.3 The existing building has a footprint of 303sqm, a volume of 1727 cubic metres and a maximum height of 5.9m to its flat roof.
- 1.4 The proposed dwellings would have a combined footprint of 499sqm, a volume of 3132 cubic metres and a height of 7.5-8m. Units 1-5 form a block of terraced dwellings, units 6-8 form another block of terraced dwellings and units 9 and 10 are detached dwellings.
- 1.5 It is proposed to remove an existing culvert that runs across the site and replace this, mostly with a new, wider culvert for 83m and an open watercourse corridor for 40m to the south of the proposed dwellings.
- 1.6 Additional landscaping is proposed, along with an area of woodland replanting on land to the west of the adjacent Isles Quarry West housing development.
- 1.7 No affordable housing is proposed to be provided as part of the scheme.

2. Reason for reporting to Committee:

- 2.1 Significant local interest.

3. The Site:

- 3.1 The site lies within the Metropolitan Green Belt and outside of the defined settlement confines of Borough Green, within the countryside. To the north of the site lies the Borough Green Doctors Surgery. To the south lies Isles Quarry East which is used informally as amenity land.
- 3.2 The application site comprises 1.18ha of land. The site contains a two storey flat roof building, currently used by the applicant as offices in association with carrying out the development of housing at Isles Quarry West. Prior to that, the building has been used as an office in association with the minerals etc. aspects of Isles Quarry. An area of hardstanding is located to the rear (south) of the office building, the access runs adjacent to the building to the east, with an undeveloped part of the site located beyond the access.
- 3.3 Land to the west of the application site lies within the settlement confines of Borough Green, being housing within the roads of Hazelbourne Avenue, Isles Quarry Road and Bangays Way.
- 3.4 The site is located within Flood Zone 2, and part lies within Flood Zone 3a.

4. Planning History (relevant):

TM/94/00155 grant with conditions 2 March 1995

Restoration of part of quarry by landfilling with controlled waste

TM/11/01191/FL Approved 20 June 2013

Erection of 171 dwellings, creation of 6.82ha of public open space including local area of equipped play (leap), new vehicular access onto Haul Road. Provision of access road, footpaths, landscaping and all associated infrastructure, removal of bridge deck to Isles Quarry East

TM/14/02862/RD Approved 19 November 2014

Details submitted of the ecological enhancement pursuant to condition 27 of planning permission TM/11/01191/FL (Erection of 171 dwellings, creation of public open space including local area of equipped play (leap), new vehicular access onto Haul Road. Provision of access roads, footpaths, landscaping and all associated infrastructure, removal of Bridge Deck to Isles Quarry East)

5. Consultees:

- 5.1 Borough Green PC: The Parish Council supports this application but this decision was not unanimous amongst the council members. If this application is approved

it is strongly requested that there is a condition applied stating that the transfer of both areas of land to BGPC be confirmed in writing.

- 5.2 Platt PC: Support the proposal in so far as this area already being developed into residential and one outdated office building now seems out of place. The condition made to hand over to Borough Green Parish the “amenity” land will leave that area under local control and perhaps permit enlargement of the medical centre which is already stretched.
- 5.3 NE: No objection. NE considers that the proposed development will not have a significant adverse impact on designated sites from a nature conservation point of view.
- 5.4 EA: No objections. Our team is satisfied that the assumptions made and the quality and accuracy of the results are acceptable. It is indicated that the proposed design should help to improve flood risk on the site and the conclusions drawn in the submitted FRA are reasonable.
- 5.4.1 It is unfortunate that this proposal has not taken the opportunity to open the entire watercourse. However, in this instance, due to the complicated flood risk implications on site, the nature of the proposals, in particular the viable flood risk mitigation measures and the partial opening of the watercourse, the EA find the scheme acceptable.
- 5.4.2 Additional EA comments: The applicant has stated that one benefit of the proposed culvert works will be ‘preventing flooding of Thong Lane up to the 100 year climate change event’. However, the modelling output maps provided by the applicant, as well as the EA’s flood maps, show that Thong Lane is outside of the flood outline in this area. It is assumed that this is an error and clarification would be needed as to which area the applicant was indicating. We would assume that the applicant was in fact referring to Quarry Hill Road, however the post-development modelling outputs provided for the 1 in 100 year 35% flow clearly shows that flood water would still present along this road during such an event.
- 5.4.3 It should be noted that, due to the additional risk of surface water flooding on Quarry Hill Road, complete elimination of flooding on Quarry Hill Road is likely to be beyond the scope of works to the culvert on this site.
- 5.4.4 The number of properties in the Crowhurst Road/Lendon Road area affected by flooding (pre-development) may be slightly fewer than listed. An inspection of the stretch of the water course crossing underneath Crowhurst and Lendon Roads and the areas both up and down stream would indicate that, whilst the condition of the culvert on the applicant’s site has an impact on flood risk to properties on these two roads, it has a significant impact on property further downstream on Basted Road. However, some of the properties on Lendon Road would also be at risk from peak flows derived from flooding of the Bowls Club and Recreation Ground.

- 5.4.5 The number of properties benefiting from some reduction in flood depth as a result of the proposed improvement to the culvert is a fair assessment.
- 5.4.6 From an examination of historic, fluvial and surface water flood maps, the EA are currently unaware of the existence of a direct risk of flooding to the neighbouring medical centre, which could be affected by the proposed improvements to the onsite culvert.
- 5.4.7 Irrespective of the status of the development and the above comments, the EA welcome and encourage improvement to the watercourse and associated culverts on the site, but would prefer this improvement to be an open watercourse. However, the current proposal should reduce flood risk elsewhere and have some benefit to flood risk in the local area.
- 5.5 Southern Water: No objection, subject to conditions.
- 5.6 KCC (SUDS): No objections to the proposed drainage strategy subject to the confirmation of the detailed designs of the scheme being confirmed via condition. The site provides a significant betterment to the existing situation in terms of surface water discharge rates. The reduction in impermeable area due to the redevelopment also reduces the volume of water leaving the site.
- 5.6.1 Welcome the improvements to the existing watercourse which will reduce the risk of flooding to the local highway, subject to conditions requiring submission of a detailed surface water drainage scheme and details of how this will be implemented, maintained and managed.
- 5.6.2 KWT: No objections
- 5.6.3 KCC (Highways): Access to the site is via an existing private road from Quarry Hill roundabout, which also serves a Medical Practice and Health Club. There have been no personal injury crashes associated with the access in the latest 5 year period. It is anticipated that traffic accessing the site will be reduced with the change of use from office to residential.
- 5.6.4 Parking is adequate and tracking diagrams have been provided which indicate that a refuse vehicle is able to enter/exit and manoeuvre and turn satisfactorily in the site.
- 5.6.5 Plans have been amended to show a crossing point on Thong Lane, linking the development to Isles Quarry West.
- 5.7 Kent Police: The applicant has amended their plans to address earlier comments. The changes to the amended plan are noted and are acceptable on crime prevention view.
- 5.8 UMIDB: The site lies outside the UMIDB but it is recommended that any surface water is discharged from the development to a local watercourse should be

attenuated to 7 litres/sec/hect for the 1:100year storm. To attenuate the discharge from the site would not have a detrimental impact on the flood plain and further downstream.

5.9 Borough Green Medical Practice Objection on following grounds:

- It appears that the site lies in an area of Green Belt land and do not consider that this is appropriate land for development. The Borough Green Medical Practice has 7 partners and 2160 patients allocated to each doctor. The national average is 1600 patients per doctor. There are 16 clinical rooms. In addition to usual GP services, the surgery offer minor surgery, dermatology and audiological services, along with training GPs;
- The surgery does not have the infrastructure to accommodate the current pace of development for more proposed patients to the area and continue to offer the current care provided;
- The investment required to provide primary medical services has to be done in advance. There have been 500 additional patients taken on in the last year with no extra infrastructure funding;
- There are insufficient car parking spaces for the development and therefore residents are likely to park additional cars in the adjacent doctor's surgery car park, causing obstructions to staff, patients and emergency ambulances;
- The proposal will result in an increase in traffic around the surgery, which will impact on patients, in addition to the traffic resulting from the recently opened Reynolds premises;
- There will be disturbance and noise during building and the associated works and from the development itself.

5.10 Private Reps: 27 + site + press notice/2S/5R/0X

2 letters supporting the application for the following reasons:

- It would have been preferable for the office to be retained for future use by the Medical Practice;
- The proposal has been well considered and in-keeping with the residential areas nearby;
- The proposal is enhanced by the transfer of land to the north and south to the Parish Council to give more local control to these areas in the future;
- The proposal to donate land to the Parish Council and provide flood relief benefit of diverting and reculverting the Main River through the site, amount to

far greater Exceptional Circumstances than those normally required to allow Inappropriate Development;

- Any planning permission granted should be included in a legally binding arrangement;
- All site traffic should be via Darkhill Road and not Quarry Hill Road;
- The 7.5 tonne limit on Quarry Hill Road that should have been implemented when Darkhill Road was adopted should be included;

5 letters objecting (4 from one household) to the application on the following grounds:

- One of the entrances to Hazelbourne Avenue was closed due to too much traffic going up Quarry Hill Road. It would be unfair to let 10 new houses be built that use Quarry Hill Road. Using Darkhill Road in the winter is unsafe;
- Overintensification of the site. The Way Forward consultation looked at 5 dwellings;
- Encroachment on the Green Belt and destruction of the natural habitat: part of Block 3 is not 'brownfield'/previously developed land. Paragraph 80 of the NPPF specifies that Green Belt is there to assist in safeguarding the countryside from encroachment;
- Do not agree with the very special circumstances;
- The proposal does not accord with Policy CP12 of the TMBCS or Policy NE4 of the TMBCS;
- The proposal to cut down trees to facilitate Block 3 is not justifiable in this context;
- The proposal would inhibit the 'right to roam' on the land known as Isles Quarry East as it currently exists;
- The proposal would result in an increase in traffic – the residents of Conyerd Road, Harrison Road, Rock Road, Quarry Hill Road and the Landway have endured over 2 years of HGV traffic using HGV traffic as a route to the Isles Quarry West development, despite the specification in the committee report that a 7.5 tonne weight restriction should be placed on the road.;
- If approved, the construction traffic would use a narrow site entrance opposite the entrance to the medical centre and would pose a threat to public safety;
- Neighbouring residents would be subjected to noise from construction traffic;

- The calculations for parking are inaccurate. A total of 22 parking spaces are required in total, not 26 spaces as shown;
- In addition, parking would be required for construction vehicles;
- The 'gifting' of land to the Parish Council is corrupt. Land to the north should be given to the Medical Practice to allow them to expand to accommodate the additional patients created by the applicant's development at Isles Quarry West and/or to provide additional patient parking. Similarly, the Hanson site could be given to the medical practice for parking;
- Users of Isles Quarry East, if opened up to the public, would also need to park, which could be provided on the site to avoid them using the Medical Centre car park.

6. Determining Issues:

Development in the Green Belt:

- 6.1 The site lies outside of the rural settlement confines of Borough Green, as identified in the Council's adopted LDF, within the Metropolitan Green Belt where restrictive planning policy applies. The Green Belt is a strategic designation intended to (inter alia) check the unrestricted sprawl of large built-up areas and prevent the merging of neighbouring towns into one another.
- 6.2 Policy CP3 of the TMBCS states that national Green Belt policy will be applied to proposals within Green Belt land. National Green Belt policy is set out in paragraphs 79-92 of the NPPF. In particular, it identifies that a LPA should regard the construction of new buildings in the Green Belt as inappropriate development, which is, by definition, harmful to the Green Belt and should not be approved except in 'very special circumstances' (VSCs). Certain exceptions to this are set out in paragraphs 89 and 90 of the NPPF and insofar as they could relate to this proposal are as follows:
- 6.3 Paragraph 89 states that two such exceptions are as follows:
- Limited infilling in villages; or*
- Partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.*
- 6.4 The position of the site and the particular relationship with Borough Green village is such that the proposed scheme for redevelopment would not amount to infilling within the village. Crucially in this respect there would remain a substantial amount of open land beyond the development particularly to the south and east. It could,

therefore, not reasonably be said to amount to infilling and this exception can therefore not apply.

6.5 Turning to the second possible exception as set out within the NPPF, it is necessary to establish the following:

- Whether the site can be regarded as previously developed land;
- If so, whether the proposed development would have a greater impact on the openness of the Green Belt and the purpose of including land within it.

6.6 Dealing firstly with whether the site can be regarded as previously developed land, Annex 2 of the NPPF provides the following definition:

“Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure.”

6.7 With this definition in mind, I can conclude that the application site can, in part, be regarded as previously developed land. It is clear that the part of the site occupied by the office building itself and the associated areas of hardstanding fall within the definition of previously developed land. I deal with what bearing this has on the various elements of the proposed scheme in turn below:

Plots 1 – 5:

6.8 Plots 1 – 5 are proposed to be sited in place of the existing office building. The presence of the building results in this part of the site undoubtedly falling within the definition of previously developed land. As such, it is necessary to apply the second strand of the exception and make a judgement as to whether Plots 1 – 5 would have a greater impact on the openness of the Green Belt than the existing building. In this respect, the existing building has a footprint of 303sqm, a volume of 1727 cubic metres and a maximum height of 5.9m. Conversely, Plots 1 – 5 are proposed to cumulatively have a footprint of 229sqm, an overall volume of 1570 cubic metres, and a maximum height ranging between 7.5 - 8m. Although the buildings at this point would be marginally higher than the existing office building, the footprint and associated volume would be reduced. In addition, the form, scale and design of the buildings when compared to the existing bulky office building would further ensure less demonstrable impact on levels of openness.

6.9 It is therefore my view that Plots 1 – 5 would not have a greater impact on openness within this point of the site, and as such, they cannot be considered as inappropriate development within the Green Belt.

Plots 6 – 8:

- 6.10 Plots 6 – 8 are proposed to be sited in place of the existing area of hardstanding to the south of the office building. This area has historically been used for car parking, the siting of recycling bins and open storage. This area also falls within the definition of previously developed land as it constitutes operational development and forms the immediate curtilage associated within the office building. Albeit falling within this definition, it is again necessary to establish whether Plots 6 – 8 would have a greater impact on the openness of the Green Belt. In the simplest of terms Plots 6 – 8 could be said to have a greater material impact on openness on the Green Belt than the existing development (i.e. building instead of hardstanding). However, there is a reasonable case to say that this part of the site (the hardstanding) could be covered with vehicles, open storage, recycling bins etc., all of which would have an impact on openness in a sprawling and largely unregulated manner. Whilst the presence of houses here as an alternative would have a *different* impact on openness, it could justifiably be concluded that it would be in a more consolidated form that would not, on the ground, have a greater impact on openness and the purpose of including land within it.
- 6.11 As such, I conclude that the development of Plots 6 – 8 as proposed would not amount to inappropriate development within the Green Belt.

Plots 9 – 10:

- 6.12 Plots 9 and 10 are proposed to be located on a part of the site which is occupied by no buildings, associated structures or other operational development and therefore this part of the site does not constitute previously developed land. Notwithstanding the conclusions drawn above in respect of Plots 1 – 8, the exception set out in paragraph 89 (insofar as it relates to this part of the scheme) does not apply and Plots 9 – 10 amount to inappropriate development within the Green Belt.
- 6.13 In reaching this conclusion, it is also necessary to establish whether Plots 9 – 10 would cause any other harm. In this respect, I consider that the construction of buildings within this, undeveloped, part of the site would clearly have a material impact on openness of the Green Belt and the purpose of including land within it. In addition, I consider that harm would arise as a result of the visual intrusion resulting from the position of these dwellings within this undeveloped part of the site.

Green Belt conclusions:

- 6.14 The proposed development insofar as it relates to Plots 9 and 10 amounts to inappropriate development within the Green Belt. The development of these

houses within an open, undeveloped part of the site would also cause material harm to openness.

6.15 The NPPF makes it clear (in paragraph 87) that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It goes on to state (in paragraph 88) that when considering any planning application, LPAs should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In this case, it is therefore necessary to consider whether there are any other considerations relevant to the overall balance of the case that would amount to very special circumstances which clearly outweigh the harm to the Green Belt arising from the development of Plots 9 and 10.

Very special circumstances:

6.16 The applicant questions the need for very special circumstances to exist in this instance, suggesting that the site has been identified as previously developed land in the SLAA (September 2016) and that this is contradicting the conclusion that the area of land proposed for plots 9 and 10 is not previously developed land. The commentary provided within the SLAA is a high level, brief, broad summary of the site overall and does not necessarily apply the same rigour to the application of the definition of previously developed land contained within the NPPF that must be undertaken when determining an individual planning application such as this.

6.17 Nonetheless, even if this part of the site were considered to be previously developed land within the definition set out by the NPPF, this would still not result in Plots 9 and 10 falling within the exception set out in paragraph 89 because the second tranche of the test to be applied by that exception requires there to be no greater impact on openness. As discussed, the presence of two detached dwellings within an open piece of land would undoubtedly have a greater impact on openness and the exception would therefore not apply in any event.

6.18 Notwithstanding the applicant's assertion that very special circumstances are not required, they have nevertheless set out what they consider to be a case of very special circumstances as the following:

- The proposal would deliver a drainage solution to the existing flooding issues in the area and providing a betterment to the existing situation;
- The proposal would enhance the appearance of a brownfield site and provide 10 no. sustainably constructed dwellings;
- The proposal would provide a large area of publicly accessibly open space, formalising the existing footpath which is currently located on private land;

- The proposal would provide environmental benefits for wildlife including the creation of an extensive new area of woodland;
- The proposal includes the transfer of a parcel of land to Borough Green Parish Council, the use of which is to be determined by the Parish Council

6.19 Each of these are discussed in turn below as to whether they are firstly capable as a matter of law of being very special circumstances and, if so, whether they clearly outweigh the identified harm either individually or cumulatively.

Improvement to flooding situation:

6.20 As part of this development the applicant is proposing to replace the existing 600mm wide culvert which runs through the site with a 1.5m wide culvert and a length of open watercourse. The applicant has had the existing culvert surveyed and it has been found to be in poor condition and structurally damaged. The information submitted suggests that this work will result in the site no longer being located within Flood Zone 3, greatly reducing the risk of fluvial flooding. The applicant has submitted details of the properties beyond the application site itself that are likely to benefit from these works.

6.21 It is important to recognise that the identified works to the culvert would be required to make the proposed development acceptable in planning terms in any event (because the works ensure the site would no longer be designated as Flood Zone 3). However, the fact that the works would result in some tangible benefit to the wider area goes beyond the requirement of adopted policy and therefore is capable of amounting to very special circumstances.

6.22 Whilst it is likely that work to replace the culvert will pose some benefit to the wider area, many of the properties named by the applicant are not located within Flood Zone 3 in any event. Last year, the applicant undertook works to a culvert located further down Thong Lane, close to the bridge that has now been removed. Since this time there has not been significant rainfall to ascertain the full impact that this work has had. However, the EA has advised that, in their opinion, the main areas of concern from flooding of surface water lie further to the south at Basted Mill rather than many of the properties identified by the applicant as receiving some benefit.

6.23 Whilst the works that are proposed in connection with this proposal are likely to result in betterment, and therefore are capable of amounting to very special circumstances, the EA has advised that the overall benefit would be limited and as a result it is my view that this would not clearly outweigh the identified harm.

6.24 I therefore conclude that the off-site benefits arising from the culvert works are limited and do not in this instance clearly outweigh the harm arising from the inappropriate development sufficient to amount to very special circumstances.

Enhancement of a brownfield site:

- 6.25 The applicant has suggested that the proposal would enhance the appearance of a brownfield site and provide 10 sustainably constructed dwellings. It is accepted that *significant* visual enhancement of a site, over and above what is normally required by planning policy, could be capable of amounting to a very special circumstance. Equally, there is no question that the replacement of the existing office building would be welcomed generally in visual terms. However, the proposed dwellings are not of a design that could be considered to be 'outstanding' or result in such significant enhancement of the site in visual terms to clearly outweigh the identified harm. In the event that the office building was proposed to be replaced with a really exceptional building in design terms, then a case for very special circumstances might exist. Additionally, it should be acknowledged that Plots 9 – 10 (already established as being the part of the scheme which is inappropriate development and causing harm) would not even be replacing existing built development in any event.
- 6.26 As such, I do not consider this suggestion amounts to very special circumstances outweighing the harm to the Green Belt.

Provision of open space:

- 6.27 The applicant is proposing to provide an area of public open space to the south of the site. The submitted plans show an 'informal' footpath to be located within this area. This area of land is currently used for recreation purposes by walkers on an informal basis. It is proposed to open up this land and transfer it to the Parish Council to own and maintain (which would be a private matter and not something to be considered as part of the assessment of this application).
- 6.28 It should be recognised that the piece of land in question is designated as a Local Wildlife Site, and the land also forms part of the Management Area within the Habitat Management Plan for condition 27 of TM/11/01191/FL (Erection of 171 dwellings at Isles Quarry West). As such, it already exists as open space, albeit in a less formal guise than that proposed by the applicant at this time.
- 6.29 In any event, policy OS3 of the MDE DPD seeks to secure the provision of open space as part of any new developments, either through on site provision or where that is not possible or practical, via a commuted sum. The proposed scheme would trigger this requirement and as such the provision of open space as part of this scheme would be a normal requirement to accord with adopted planning policy and as such this is not, as a matter of law, capable of being a very special circumstance.

Wildlife improvements:

6.30 The applicant is proposing to create an area of new woodland on land currently within the applicant's ownership, to the west of the housing development at Isles Quarry West, which they state will provide additional environmental benefits for wildlife. This is proposed in order to mitigate the loss of trees as a consequence of the proposed culvert works. Replacement tree planting as part of any development scheme would be considered within the normal realms of decision making, to ensure the scheme complied with relevant policies pertaining to visual amenity and biodiversity. Making the "offer" to create an area of woodland in place of what is proposed to be removed is normal mitigation in order to ensure a scheme is policy compliant and this is not, as a matter of law, capable of being a very special circumstance either.

Transfer of land north of Borough Green Medical Practice:

6.31 The applicant has explained an intention to transfer a parcel of land currently within their ownership, to the north of the doctor's surgery, and south of Harrison Road, to Borough Green PC, for a use of which is to be determined by the Parish Council. The applicant believes that this constitutes very special circumstances. However, this is a purely private matter concerning a parcel of land between individual parties and its potential transfer for whatever purpose fails to even amount to a material planning consideration in the broadest sense, let alone being capable of amounting to very special circumstances. Therefore, although the Parish Council can understandably see some broader benefit in securing such a land transfer, it falls squarely outside the scope of the determination of this application and cannot be considered as part of that determination in any event.

Viability considerations:

6.32 The NPPF recognises that decision-taking on individual schemes does not normally require an assessment of viability. However, it also states that viability can be important where planning obligations or other costs are being introduced. In these cases decisions must be underpinned by an understanding of viability, ensuring realistic decisions are made to support development and promote economic growth. Where the viability of a development is in question, local planning authorities should look to be flexible in applying policy requirements wherever possible.

6.33 In this respect, paragraph 173 of the NPPF states that:

"Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of

the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.”

- 6.34 The applicant has submitted a Viability Report (albeit on a confidential basis), to support their justification for the proposed 10 new dwellings. The report suggests that the development of 10 dwellings is necessary to overcome what are described as being the “abnormal costs” associated with culverting works, the new open watercourse corridor, demolition of the existing building and decontamination.
- 6.35 Members will be aware that works associated with the demolition of the existing building and decontamination are matters that should have been taken into account by the applicant when purchasing the site and negotiating development costs, rather than being “abnormal” in any way.
- 6.36 An independent Viability Appraisal has been sought on the information provided by the applicant. The results of this independent appraisal conclude that 10 units would result in a relatively high profit. Independent calculations have also been considered for an 8 unit scheme (in otherwords removing the part of the scheme which conflicts with Green Belt policy). These calculations conclude that a reasonable, albeit lower, profit would still be achieved by the developer.
- 6.37 In any event, it is important to recognise that there is no suggestion that the scheme as proposed would incur a requirement for planning obligations or other unacceptable “burdens” upon the developer. The various offers they have made as part of their supporting information have been made unilaterally either in order to make the development acceptable in planning terms or in the hope that a conclusion would be reached that very special circumstances were present. This is not the same as the LPA requiring significant or burdensome contributions that would impact upon viability in the way the NPPF is seeking to restrict.

Development within the countryside:

- 6.38 In addition to the Green Belt designation, more generally the application site lies within the countryside, outside the defined village settlement confines of Borough Green. Policy CP14 of the TMBCS seeks to limit development within the countryside to a specified number of instances, with the most relevant to this case being extensions to existing settlements.
- 6.39 In the broadest of terms, this scheme would not amount to an extension to the existing settlement: it is a standalone site which does not immediately abut the exiting settlement and therefore cannot be said to be an extension of it and as a result the proposal conflicts with policy CP14.
- 6.40 Elsewhere across the Borough, with the restrictions set out in CP14 in mind, new houses within the countryside (irrespective of whether they also lie within the Green Belt) have met with refusal of planning permission on grounds of principle

i.e. they do not meet one of the types of development set out in the policy. However, I am mindful that very recent appeal decisions indicate that Planning Inspectors are allowing appeals for new houses based within the countryside on wider considerations involving locational characteristics, regardless of those restrictions. These appeal decisions are important material planning considerations and regard must be had to them in the assessment of this case. This means that we must carefully consider the site specific characteristics of any such schemes rather than immediately concluding that CP14 does not allow for such development to take place. Given the importance of these recent appeal decisions, the guiding conclusions drawn are summarised below for Members' further information:

- 6.41 In the case of land at Orwell Spike West Malling, which related to an outline application for a single dwelling, located within the designated countryside, the Inspector discussed the fact that the dwelling as proposed would be adjacent to existing built development (albeit all within the designated countryside) and therefore would not be physically isolated. He then goes on to state that the site is well located, in close proximity to both West Malling and Kings Hill. Reference was also made to the bus service and the fact that the site is considered to be within walking distance of the employment and neighbourhood centre of Kings Hill, concluding that the location is sustainable.
- 6.42 The Inspector concluded by stating that there would be conflict with CP14 but that this conflict must be weighed against his findings that there would be no harm to character and appearance and that this would, in transportation terms, be a sustainable location for a house. He goes on to say that, in light of this, the conflict with CP14 is not of such significance to warrant refusal and that the site would be suitable for a house.
- 6.43 In the case of land at Robin Hood Lane Bluebell Hill, which involved a scheme of 5 units adjacent to the settlement confines, the Inspector's decision described the fact that the site lies within the countryside but that it is located adjacent to the boundary of the village. It also described the site as being conveniently located in terms of public transport and discussed availability of local facilities and services. In concluding on matters of countryside, the Inspector stated "*I conclude that although the appeal site is situated within the designated countryside that the principle of residential development is acceptable*".
- 6.44 Earlier in the decision, the Inspector also discussed his view that CP14 is in fact out of date (paragraph 22 of the appeal decision) and this goes to the objectively assessed need (OAN) on which the policy would have been based at the time of the CS rather than the higher, OAN within the emerging plan – the Inspector concluded on this point by stating that CP14 cannot be considered up to date.
- 6.45 With these considerations in mind, notwithstanding the restrictions set out in CP14, these appeal decisions are material to the consideration of this application.

The locational characteristics of the application site share key characteristics with the appeal sites insofar that it is well related to nearby development and services. These factors are material considerations that, in my view, outweigh the restrictions set out in policy CP14.

- 6.46 Paragraph 55 of the NPPF sets out further requirements in terms of assessing housing development within rural areas. It seeks to avoid isolated new homes in the countryside unless specific exceptions apply. Again, Planning Inspectors have recently provided a clear steer on how to interpret this paragraph by setting out that careful consideration must be given to the specific locational context before determining that a site is truly isolated rather than concluding that a countryside location will automatically render the development isolated, the tests effectively containing two distinct dimensions; firstly whether the site is physically remote from other buildings and secondly whether it has easy access to services and facilities.
- 6.47 It is quite clear that this site is not in any way physically isolated and it certainly has easy access to local services and facilities. As such, there would be no conflict with the requirements of paragraph 55.

Setting of Area of Outstanding Natural Beauty:

- 6.48 The site lies adjacent to the North Downs Area of Outstanding Natural Beauty.
- 6.49 Paragraph 115 of the NPPF requires weight to be given to conserving landscape and scenic beauty of Areas of Outstanding Natural Beauty. Policy CP7 of the TMBCS states that development will not be permitted which would be detrimental to the natural beauty and quiet enjoyment of the Area of Outstanding Natural Beauty, including their landscape, wildlife and geological interest, other than in the exceptional circumstances of major development that is demonstrably in the national interest or any other development that is essential to meet local social or economic needs. Any such development must have regard to local distinctiveness and landscape character, and must use sympathetic details and appropriate design.
- 6.50 The proposal will involve the removal of the existing flat roofed office building and introduce a small scale housing development similar in appearance and scale to nearby developments. As such, I do not consider there would be any harm arising to the AONB.

Visual impact:

- 6.51 Policy CP24 of the TMBCS requires that all new development must be well designed and of a high quality in terms of detailing and the use of materials, and must through its scale, density, layout, siting, character and appearance be designed to respect the site and its surroundings. This requirement is further supported by policy SQ1 of the MDE DPD. The layout of the development

responds appropriately to the nature of the site and is proposed to be similar in visual appearance and scale to the nearby development at Isles Quarry West, which would in this instance be appropriate in adequately respecting the site and its surroundings. I consider that the scheme would not cause visual harm and accords within the requirements of policies CP24 and SQ1.

Residential amenity:

- 6.52 The proposed layout has been designed to ensure the residential amenities of the future occupants would not be compromised, with sufficient separation between the dwellings to ensure adequate amounts of privacy and light. Equally, the site does not have any immediate relationship with any surrounding residential dwellings, the nearest existing houses being located a significant distance away, meaning that there would be no impact on the amenities of any existing residents.

Highway safety and parking provision:

- 6.53 Access to the site is via the existing private road, owned by the applicant, from the Quarry Hill roundabout, which also serves a Medical Practice and Health Club. It is anticipated that traffic accessing the site will be reduced as a result of the proposal when compared to the extant office use of the site. Paragraph 32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. The proposal includes 24 parking spaces, which is comparable to the requirement of parking spaces required for a B1 office use at the scale of the existing building, under the KCC Vehicle Parking Standards. The proposed parking provision is acceptable in relation to KCC Vehicle Parking Standards.
- 6.54 The applicant has amended their plans to extend the footway to the west of Thong Lane and to install dropped kerb/tactile paving on the Thong Lane splitter island and each footway on Thong Lane and the private road leading to the proposed dwellings to address the comments of KCC Highways.
- 6.55 KCC (Highways) raise no objections to the proposal.

Flooding:

- 6.56 Given that the site lies within Flood Zone 3, a Flood Risk Assessment has been submitted for consideration as part of the planning application.
- 6.57 Table 2 of the Flood Risk and Coastal Change Planning Practice Guidance shows offices as falling within the “less vulnerable” category, whereas residential falls within the “more vulnerable” category. Table 3 within that guidance does not allow for development within the “more vulnerable” category to be developed within Flood Zone 3a.

- 6.58 Paragraph 103 of the NPPF states that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test and, if required, the Exception Test, it can be demonstrated that, 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; and the development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including emergency planning; and it gives priority to the use of sustainable drainage systems.
- 6.59 The proposal involves replacing the existing culvert with a wider culvert and open watercourse. The EA has reviewed the flood model submitted by the applicant and is satisfied with the assumptions made and that the quality and accuracy of the results is acceptable, although they have noted that the EA are generally opposed to culverting, and encourage the use of open watercourses.
- 6.60 The applicant has submitted that the proposed works to the culvert would take the site out of Flood Zone 3 and this conclusion has not been disputed by the EA. For proposals within Flood Zone 2, Table 3 allows for “more vulnerable” development meaning that there would be no objection to the development on flooding grounds provided the improvements to the culvert were secured, along with more detailed information about inlets/outlets and maintenance arrangements.
- 6.61 In terms of surface water arrangements, the proposed redevelopment would overall result in an improvement to drainage rates.

Contamination:

- 6.62 Paragraph 120 of the NPPF states that where a site is affected by contamination or stability issues, responsibility for securing a safe development rests with the developer and/or landowner.
- 6.63 There are two aspects of contamination that need to be considered in respect of this site: firstly the protection of incoming residents from potential contamination; and secondly the need to assist the EA in ensuring that any land contamination does not pollute any water bodies whether above or below ground. The submitted Contamination Report has been considered. The submitted report adequately reviews the history and environmental setting of the site, and presents the findings of an intrusive investigation. Contamination that poses a risk to end receptors is present on the site in the form of contaminated soils and ground gas generation. Some of the soils are categorised as hazardous waste in terms of disposal. A solid obstruction was encountered in all sampling locations which will impact on foundation design.

6.64 Further intrusive investigation would be required as sampling locations were limited to the edges of the site as it was still operational. This is entirely normal, and would be a matter appropriately dealt with by a suitable planning condition in the event that planning permission was granted.

Archaeology:

6.65 The site lies within an Area of Archaeological Potential. Paragraph 128 of the NPPF states that where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit a desk-based assessment and, where necessary, a field evaluation. No comments have been received from KCC (Archaeology) to date. However, it would be reasonable to assume that the historic quarrying activity would have had an impact on the survival of any archaeological remains and it is unlikely that archaeology survives in the majority of the site. Again, this is a matter that could be adequately dealt with via planning condition in the event that planning permission was granted.

Noise:

6.66 The applicant has submitted a Noise Assessment as part of the supporting documentation. The Noise Assessment has utilised data obtained for the adjacent Isles Quarry development. The same assessment methodology has also been adopted and there are some areas of information lacking within the assessment although it is clear that mechanical ventilation would be required to achieve a satisfactory aural environment for the units. In cases such as these, where there remains a fundamental objection to a scheme for other reasons (in this case the fact that Plots 9 and 10 are inappropriate development and there are no very special circumstances present), it would be unreasonable to further delay determination to seek further clarification on these aspects of the scheme. Of course, had the development been acceptable in all other respects, further clarification could be sought on this matter to enable a planning condition to be imposed securing mechanical ventilation at an appropriate level.

Potential requirements for planning obligations:

6.67 Within the countryside, affordable housing contributions should not be sought for developments of fewer than 11 units, unless the maximum combined gross floor space is greater than 1000sqm. The floor space of the submitted scheme has been calculated to be less than 750sqm and therefore there is no requirement to seek affordable housing contributions on this scheme.

6.68 In terms of community facilities, I note the comments that the existing Medical Practice in Borough Green is already under considerable pressure and that the proposed development would increase this pressure. The adjacent Medical Practice has been consulted as they are a neighbour to the application site. Whilst I note their comments relating to capacity, I consider that 10 additional dwellings

within the locality will not result in an additional impact to capacity significant enough on planning policy grounds. This is supported by the fact that no representations have been received seeking contributions towards health care improvements.

Overall conclusions:

6.69 Plots 9 and 10 of the proposed development amount to inappropriate development within the Green Belt, which is harmful by definition. The development of these two plots within an open, undeveloped part of the site would cause harm to openness and visual intrusion. For these reasons, very special circumstances are required. The developer has been given the opportunity to consider a revised scheme removing these plots and thus the need for very special circumstances to be demonstrated but has decided not to follow such a route. As such, the scheme as it currently stands falls to be determined.

6.70 I would remind Members that the tests regarding very special circumstances as set out in paragraphs 87 and 88 of the NPPF are as follows:

“87. As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.”

“88. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.”

6.71 Matters which may or may not constitute very special circumstances are ultimately for the Courts to determine, and the limitations of this application in that context are summarised within the preceding assessment. However, the determination as to whether very special circumstances exist within that legal framework is a matter for the decision maker. The weight to give to the various elements identified which are both capable of and considered to constitute very special circumstances is a matter of planning judgement and must be weighed against the Green Belt harm by way of inappropriateness, and any other harm that may exist. In this respect, whether very special circumstances exist is the ultimate issue to be determined and the critical question on the path to that determination is whether such circumstances *clearly* outweigh the harm by reason of inappropriateness and any other harm.

6.72 The Planning Committee must therefore give due consideration to the prevailing circumstances of this case and to determine whether or not they clearly outweigh the harm and in so doing has to exercise a judgement and assess the quality of factors according to planning principles and considerations.

6.73 It remains my judgement that the circumstances put forward by the agent in seeking to justify this development are either not capable of amounting to very special circumstances as a matter of law or, where they are capable of amounting to very special circumstances, do not outweigh the harm to the Green Belt in this case sufficiently to allow for a grant of planning permission. As such, my recommendation remains that planning permission should be refused for the reasons set out below.

7. Recommendation:

7.1 **Refuse planning permission** for the following reason:

Reason:

1. The site lies within the Metropolitan Green Belt where there is a strong presumption against permitting inappropriate development, as defined in paragraphs 89 and 90 of the National Planning Policy Framework 2012. The proposed development insofar as it relates to Plots 9 and 10 comprises inappropriate development which is by definition harmful to the Metropolitan Green Belt. In addition, these dwellings which are proposed on an open, undeveloped part of the site would cause clear material harm to the open nature and function of the Green Belt. No very special circumstances exist which would be sufficient to clearly outweigh the degree of harm caused to the Metropolitan Green Belt. As such, the proposed development is contrary to the requirements of Section 9 of the National Planning Policy Framework 2012 and Policy CP3 of the Tonbridge and Malling Borough Core Strategy 2007.

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