"Can you confirm whether you can develop on a site that is within an AQMA?

The short answer to this question is yes. There are no grounds for automatic refusal of a planning application on the basis that the application site is in or near an AQMA, irrespective of the development size. This is explicitly stated in some guidance documents such as Environmental Protection UK (EPUK) Land Use Planning & Development Control: Planning For Air Quality, which in Section 8.3 states '*The presence of an AQMA should not halt all development, but where development is permitted, the planning system should ensure that any impacts are minimised as far as is practicable*'.
Indeed some Authorities have declared their entire areas as AQMAs and locally this includes the entire urban area of Thanet and up until May of this year the entire urban area of Maidstone Town. Although the latter has now been reduced to encompass only major roads, these AQMAs have not prevented the continued development in those areas.

Notwithstanding the above, there are now judgements which have gone against the developers at the High Court where there is an identified adverse effect on an AQMA. Cases such as Gladman Developments Ltd v SSCLG & CPRE, where the High Court rejected a claim by Gladman which sought to quash an Inspectors decision to refuse planning permission for 140 homes in Newington. This development was identified as likely to adversely affect the Newington and Rainham AQMAs. In that Inspectors original decision he found there to be no evidence of the likely effectiveness of the indicative mitigation measures to reduce NO2 emissions.

This leads on to your second query as to what, if any, 'evidenced, specific, detailed measures' developers might be able to put forward to mitigate potential impacts, how TMBC will go about assessing them and how we then monitor the results.

When considering applications, officers have reference to a number of guidance documents which indicate when an applicant should submit and Air Quality Assessment in support of their application. Applications in or near an existing AQMA would be required to submit an assessment, as would large scale developments which may possibly lead to the creation of a new AQMA.

Whilst the outcome for each site will be unique and some will be more detailed than others, all AQ assessments follow a similar pattern as the contents and methodology are dictated by a number of documents including but not exclusively the Design Manual for Roads and Bridges (Vol 11, Environmental Assessment) produced by Highways England and Local Air quality Management Technical Guidance (LAQM.TG16) produced by DEFRA. Updated Nitrogen Oxides (NOx) emission factors and vehicle fleet information are also provided by DEFRA in the form of an emission factor toolkit. This is then integrated into approved modelling software to undertake an assessment of the AQ at specified receptors, often in three scenarios. 1) Current, 2) Future without development; and 3) Future with development. The third scenario will dictate whether there are any grounds for refusal due to identified impact, or whether mitigation can be implemented to reduce the impacts.

If the applicant has taken their responsibilities seriously they will have already adopted good design principals to reduce emissions and contribute to better air quality as outlined in the EPUK document Chapter 5, 'Better by Design', which will carry in to the modelling. If further mitigation is required it will vary significantly for each development, but In assessing all measures/mitigation put forward by developers, officers will have regard to all the aforementioned guidance to draw suitable conclusions about the development proposals and the effects on Air quality.

In monitoring these outcomes, we can require verification reports for the installation of physical works such as ventilation systems and EV charging points etc before signing off planning conditions. We would also continue to carry out our own monitoring of Air Quality across the Borough. However, it is not technically possible to attribute the air quality impact of a development once in situ as any increases (or decreases) in pollutant levels may also be linked to many other factors, including developments outside of the borough, or even adverse weather events. In essence the key is ensuring the submitted Air Quality assessment is suitable and sufficient at the planning stage, and that the correct modelling inputs have been made. For larger developments where assessments are much more complex the Council have employed the services of external consultants to assess the AQ reports we receive to ensure all factors have been covered by the applicant.