

**Burham**  
Aylesford North And  
Walderslade

**31 July 2017**

**TM/17/01864/FL**

Proposal: Residential redevelopment of former public house site with an apartment block housing 10 no. flats and 2 no. terraces of 3 houses (3 bed units) together with associated access, car parking and amenity facilities

Location: Site Of Former Upper Bell PH 1 Chatham Road Aylesford Kent

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## **1. Description:**

- 1.1 Planning permission is sought for the construction of a block of 10 no. flats consisting of 4 x 1 bed, 5 x 2 bed and 1 x 3 bed units; and two terraces of three no. 3 bed terraced houses (total of 16 units) on the now vacant site of the former Upper Bell public house.
- 1.2 The application proposes the redevelopment of the land upon which the public house itself was located and not the land to the west of the site on the south side of Common Road that was previously within the same ownership and historically appeared to be used as informal parking relating to the public house.
- 1.3 The proposed scheme has evolved during the life of the application and has been the subject of lengthy ongoing negotiations between officers and the planning agent in order to seek to secure a high quality scheme that could come forward on a site that is of a poor condition, has been the subject of a protracted planning history, and has historically been the subject of various enforcement actions. It is considered that those negotiations can go no further within the context of the current application.
- 1.4 The proposed apartment block is to be set over 3 storeys maximum with some accommodation within the roofspace, with the terraced housing being 2 storeys with rooms in the roof. The buildings are proposed to be finished in a mix of brick, render and weatherboarding with a tiled roof over. The materials have changed from the original submission with the metal roof being altered to more traditional materials.
- 1.5 Parking is proposed to the east of the flat block with 10 spaces indicated for the residents (1 space per unit) and 2 visitor spaces. Access to this part of the site is shown to be via the existing access in the north-east corner of the site.
- 1.6 Each of the houses is proposed to be served by two independently accessible parking spaces within their front curtilages. These are proposed to be accessed from a private drive from the same access as the apartments running parallel to The Downs.

- 1.7 Secure cycle storage accommodating a total of 16 spaces is proposed to be provided on the lower ground floor of the apartment building.
- 1.8 There are two trees that are subject to TPOs, consisting of an oak in the south eastern corner and a horse chestnut towards the centre of the site. The horse chestnut is proposed to be removed as a result of the development, however replacement planting is indicated as part of the landscaping of the site.
- 1.9 No specific details have been provided indicating the proposed means of refuse storage to serve the development at this stage.

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

- 2.1 At the request of Cllr Sullivan given the history of the site and given the high level of public interest generated by the application.

**3. The Site:**

- 3.1 The site lies within the defined rural settlement confines of Bluebell Hill and within the North Downs AONB. It was formally occupied by the Upper Bell Public House which was a large, detached building occupying a large proportion of this corner plot. The building was set over three floors and was an irregular shape, with two small dormer windows on the north and south elevations
- 3.2 The public house ceased trading in approximately 2004. Planning permission was granted in 2009 to convert the upper two floors of the original Upper Bell into 3 self-contained flats, with a licensed premises retained on the ground floor and the construction of 2 detached houses on the wider site. Rather than seek to implement that permission, the owner at the time took the decision to demolish the building and the site was cleared by 2013.
- 3.3 The land is currently vacant and overgrown, surrounded by a timber hoarding/fence. The land levels vary considerably across the site with the west side notably lower than the east side facing onto The Downs due to the way the public house was built into the site.
- 3.4 The site is surrounded by residential development to the north, south and east, with the closed slip road to the south bound A229 to the west.
- 3.5 The residential development within the immediate locality of the site comprises a mixture of two storey detached and semi-detached houses and low scale detached and semi-detached chalets and bungalows, some with individual additions into the roof spaces.
- 3.6 The site contains a protected oak tree to the south east corner and a horse chestnut towards the centre.

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

TM/07/01429/FL      Refuse      14 June 2007

Erection of 2 new private dwellings

TM/09/00355/FL      Approved      7 September 2009

Construction of two detached 4 bedroom houses with integral garages.  
Conversion of public house to 3 self contained flats and licensed premises at ground floor

TM/12/03784/DEN      Prior Approval Not  
Required      17 January 2013

Prior Demolition Notification: Demolition of public house

TM/16/02258/FL      Application Withdrawn      14 March 2017

Residential redevelopment of former public house site with an apartment block housing 13 No. flats (9 x 2 bed units and 4 x 1 bed units) and 4 No. semi detached houses (4 x 4 bed units) together with associated access, car parking and amenity facilities

**5. Consultees:**

- 5.1 Aylesford PC: Objection. Overdevelopment of the site. Parking will be a major problem and traffic in and out of the village will also be affected. There is no provision for parking for the flats.
- 5.2 Burham PC: Objection. Concerns regarding parking provision
- 5.3 KCC (H+T): Parking accords with IGN 3. Access is considered appropriate as is in the similar location as that which served the public house. Traffic generation is not considered to be unacceptable as a result of the development as it is likely to be similar to that of the public house.
- 5.4 KCC (SUDS): Require details of a surface water drainage scheme for the site
- 5.5 Kent Downs AONB Unit: Comments on original plans:

The application site is located in the Kent Downs AONB. The application should therefore be tested against the purpose of the designation, to conserve and enhance the natural beauty of the Kent Downs AONB and the way that this purpose is represented in local and national policy.

The AONB Unit does not object to the principle of the redevelopment of the site. It is considered imperative however that any replacement development here ensures that the local character, qualities and distinctiveness of the AONB is conserved in accordance with policy SD2 of the Kent Downs Management Plan and policy CP7 of Tonbridge's Core Strategy. This policy requires new development in the AONB to have regard to local distinctiveness and use sympathetic materials and appropriate design. The Management Plan has been adopted by all local planning authorities in the Kent Downs, including Tonbridge and Malling Borough Council. The national Planning Policy Guidance confirms that Management Plans can be a material consideration in planning decisions and this view is confirmed in previous appeal decisions, including APP/U2235/W/15/3131945, Land west of Ham Lane, Lenham, Maidstone, where at para 48 of the Inspectorate's decision letter it is confirmed that "the Kent Downs AONB Management Plan April 2014 (the Management Plan) is also a further significant material consideration".

While we note that the proposals have been amended from the previous submission, reducing the height by a storey, we remain concerned that the proposals as resubmitted still fall short of meeting the requirements of both these policies. The character of surrounding development is of low density detached houses and bungalows. The proposed scale, density, design and use of metal roofing would fail to ensure the local character is conserved and enhanced as well as resulting in a development of a greater bulk than the public house building that formerly occupied the site and of surrounding buildings. The mature chestnut tree is a prominent feature in the local landscape and its loss would also fail to conserve and enhance the AONB.

Accordingly the Kent Downs AONB Unit objects to the application.

#### Comments on revised plans

The application site is located in the Kent Downs AONB. The application should therefore be tested against the purpose of the designation, to conserve and enhance the natural beauty of the Kent Downs AONB and the way that this purpose is represented in local and national policy.

As previously advised, the AONB Unit does not object to the principle of the redevelopment of the site. It is considered imperative however that any replacement development here ensures that the local character, qualities and distinctiveness of the AONB is conserved in accordance with policy SD2 of the Kent Downs Management Plan and policy CP7 of Tonbridge's Core Strategy. This policy requires new development in the AONB to have regard to local distinctiveness and use sympathetic materials and appropriate design. The Management Plan has been adopted by all local planning authorities in the Kent Downs, including Tonbridge and Malling Borough Council. The national Planning Policy Guidance confirms that Management Plans can be a material consideration in planning decisions and this view is confirmed in previous appeal decisions,

including APP/U2235/W/15/3131945, Land west of Ham Lane, Lenham, Maidstone, where at para 48 of the Inspectorate's decision letter it is confirmed that "the Kent Downs AONB Management Plan April 2014 (the Management Plan) is also a further significant material consideration".

While we note that the proposals have been amended from the previous submission, and we welcome the proposed changes to the material palette, we remain concerned however that the amended proposals still fall short of meeting the requirements of both these policies. The character of surrounding development is of low density detached houses and bungalows. While the height of the apartment block has been reduced slightly, its scale would still result in a development of a greater bulk than the public house building that formerly occupied the site and of surrounding buildings and the proposed increase in number of houses increases the density of the development and amount of hard standing required for parking. In our view the proposals would still fail to ensure the local character is conserved and enhanced. The mature chestnut tree is a prominent feature in the local landscape and its loss would also fail to conserve and enhance the AONB.

Accordingly the Kent Downs AONB Unit maintains its objection to the application.

#### 5.6 Private Reps: 31 + site + press notice/2X/123/R/13S

##### 5.6.1 123 objections received since the submission of the application raising the following:

- Proposal would be too dense and represent an overdevelopment of the site;
- Inadequate parking provision;
- Design not in keeping with the surroundings;
- Apartment building too large;
- Balconies would overlook neighbouring properties and gardens;
- Mill Lane too narrow for the proposed volume of traffic;
- Parking problems will lead to disruption on the surrounding roads;
- Potential issues with emergency services access along Mill Lane if the development results in on-street parking;
- Detrimental impact on traffic levels will exacerbate existing difficulties attempting to access the A229 from Blue Bell Hill Village;
- Existing residents should be issued with a 'smart tag' to give them access to the south bound slip road of the A229 that is currently closed;

- Lack of appropriate water and sewerage infrastructure;
- Community does not need or want this development;
- Protected horse chestnut should not be removed;
- Potential for contamination on the site;
- Adversely impact on the AONB due to the impact of ridge line views with a design that is not in keeping with surrounding structures that would adversely alter the intrinsic character of the rural area;
- Not in accordance with the adopted AONB Management Plan as the development would not enhance the AONB or protect the purpose and amenity of the protected area as the Local Planning Authority are obliged to do;
- Site should be developed for a couple of detached houses rather than the developer just maximising profit;
- Viability of the site should not drive the size of the development;
- Lack of refuse storage provision;
- Flats are not suitable for villages. Should be a development for a replacement public house or a village store;
- No plans proposed to develop the site opposite.

5.6.2 13 letters of support have been received making the following comments:

- Lack of smaller properties locally so the development will be good for those looking for starter homes in the area;
- Would be an enhancement to the site and a quality development for the area;
- Proposal is a good design that does not conflict with neighbouring properties;
- Should have been done before now;
- Will tidy up village.

## **6. Determining Issues:**

### *Principle of development and the presumption in favour of sustainable development:*

- 6.1 The site lies within the settlement confines of Bluebell Hill, within a predominately residential area and is of a nature that constitutes previously developed land as

defined within Annexe 2 of the NPPF. In these respects, policy CP13 of the TMBCS states:

“New development within the confines of [cited] rural settlements will be restricted to minor development appropriate to the scale and character of the settlement. In the case of redevelopment or change of use of an existing building, development will only be proposed in the LDF, or otherwise permitted, if: the overall trip generation is projected to be lower than that associated with the former use; or if there is some significant improvement to the appearance, character and functioning of the settlement; or there is an exceptional local need for affordable housing.”

6.2 As Members are aware, the Council cannot presently demonstrate an up to date five year supply of housing when measured against its objectively assessed need meaning that the presumption in favour of sustainable development, set out at paragraph 11 d of the NPPF, applies. For decision making 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.

6.3 The consequence of this requirement is that whilst 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) (overtly reiterated at paragraph 12 of the NPPF), there must firstly 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.

6.4 In all respects, the NPPF seeks to maximise opportunities for the supply of housing in appropriate locations that can contribute towards supply and maintain and enhance the vitality of existing communities. Continuing to concentrate new housing development within identified and established settlement confines such as this (and therefore also conforming with development plan policy CP13 in the broadest of terms) wholly accords with this aim.

- 6.5 It should be noted that policy CP13 of the TMBCS sets out a requirement for either a reduction in trip generation resulting from a proposed development when compared to the former use of the site or “significant improvements” to the appearance, character or functioning of the settlement before planning permission can be granted. These requirements are not replicated within the policies contained within the Framework and therefore this element of CP13 does not conform within the NPPF and cannot be relied upon in the absence of a five year supply.
- 6.6 As such, returning to the need to apply the presumption in favour of sustainable development, the scheme proposes new housing development within an existing identified settlement in accordance with the policies contained within the NPPF (and policy CP13 in terms of the broad principles rather than the specific requirements for net gains).
- 6.7 With this in mind, returning to the requirements of paragraph 11d, the LPA should be granting planning permission unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. In this respect, the NPPF lists the restrictive policies that apply which include those which seek to govern development within the AONB. As this site lies within the AONB it is necessary to make an assessment as to whether the scheme accords with those policies before concluding on whether the presumption in favour of sustainable development falls to be applied.

Impact on AONB:

- 6.1 The statutory purpose of the AONB is to conserve and enhance the area’s natural beauty. There is a duty on public bodies to have regard to this statutory purpose in carrying out their functions (section 85 of the Countryside and Rights of Way Act 2000). The PPG confirms that this duty also applies to proposals for land outside the designated area but which nonetheless impact upon it.
- 6.2 Paragraph 172 of the NPPF states that great weight should be given to conserving **and** enhancing landscape and scenic beauty in, amongst other areas, Areas of Outstanding Natural Beauty, which have the highest status of protection. Paragraph 172 goes on to state overtly that the scale and extent of development within these designated areas should be limited. Whilst application of the presumption is clear that restrictive policies to be applied relate only to NPPF policies, the development plan must remain the starting point. In any event, policy CP7 of the TMBCS reflects closely the requirements of paragraph 172 and thus no conflict arises in any event.
- 6.3 The site is currently derelict, increasingly overgrown and surrounded by deteriorating hoarding. Previous Section 215 notices served in order to improve the condition of the site have, to varying extents, assisted in the short-term improvement of the appearance of the site but this is not a long-term solution and

it is accepted in the broadest of terms that the redevelopment of the site would be the most appropriate way in which to secure the necessary visual improvements in perpetuity. However, it is equally important that any such redevelopment comes forward in a manner that is acceptable when considering the requirement of AONB policy is to preserve and enhance.

- 6.4 The site is set in a slight dip in the general topography with land generally sloping down towards the front of the site and this levels change has an impact on the overall visibility of the site. Whilst the site is not readily visible in distant views across the AONB and is surrounded by residential development on three sides, it is readily visible from shorter range views.
- 6.5 Whilst it is noted that the scheme has been amended since its original submission, and positive engagement to seek to arrive at an acceptable scheme is encouraged, it is not considered in this instance that enough has been done to arrive at an acceptable form of development. Much of the applicant's case, unsurprisingly, rests on the current poor condition of the site and the scale and appearance of the pre-existing public house which has long since been demolished. The test within the AONB policy is clear; to conserve and enhance and it is on this basis that the scheme must be assessed.
- 6.6 In these respects, the impacts of the development on the AONB have been succinctly drawn out within the representations made by the AONB unit, reproduced at paragraph 5.5 of this report. I concur with their conclusions in all respects.
- 6.7 In particular, they have set out that there is a need to ensure any development respects local character, qualities and distinctiveness, utilising appropriate materials and design. They have commented that the scale, density and design of the development would fail to preserve local character. In this respect, I am mindful that the NPPF policy states that scale and extent of development should be limited.
- 6.8 In terms of density, I note that the development would be at approximately 35dph. The general density in the locality ranges from approximately 20dph to 35dph. Whilst at the upper ends of what is characteristic for the area, the development ostensibly appears to be denser than the prevailing built environment because the form and scale, particularly of the apartment block, is at odds with the locality.
- 6.9 I am mindful that in general terms the NPPF encourages schemes to make the best use of available land in built up areas by avoiding building new homes at lower densities. However, this should not be at the cost of the quality of the development and its relationship with its surroundings. In any event, this general requirement would not override the restrictive policies governing development within the AONB.

- 6.10 In terms of scale and design, the site is seen most readily against a mix of low scale two storey houses, chalets and bungalows. The apartment building in particular would be of a much larger scale and would therefore appear at odds with the prevailing built form in a way that would cause harm visually. I do appreciate that some reference has been taken from the scale of the pre-existing public house on the site but the scale still goes beyond that of the pub, which in any event has not been in situ for a number of years now.
- 6.11 The materials proposed are generally reflective of the palette within the local area although it is sought to treat the buildings in a more contemporary way. In principle, such an approach is acceptable and would not cause harm if it were not for the overall scale of the development.
- 6.12 The AONB unit has also reference the loss of the horse chestnut tree. This is regrettable but had a form of development been proposed that was acceptable in all other respects for this site, a balance would need to be struck between the benefits of redeveloping the site and the loss of the tree.
- 6.13 Overall, with these factors in mind, it can therefore be concluded that the application of policies in the Framework that protect the AONB provides a clear reason for refusing the development proposed in this instance. As such, the presumption in favour of sustainable development does not fall to be applied in this case.
- 6.14 In any case, it is still necessary to make a detailed assessment of the scheme in all other respects and this is set out as follows:

*Quality of new development considerations:*

- 6.15 Whilst intrinsically linked to the preceding assessment, there are more detailed visual aspects of the proposed development that require assessment. In particular, CP24 of the TMBCS requires that:

All development must be well designed and of a high quality in terms of detailing and use of appropriate materials, and must through its scale, density, layout, siting, character and appearance be designed to respect the site and its surroundings.

All development should accord with the detailed advice contained in Kent Design, By Design and Secured by Design and other Supplementary Planning Documents such as Village Design Statements and Planning Briefs and, wherever possible, should make a positive contribution towards the enhancement of the appearance and safety of the area.

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

- 6.16 This is supported by policy SQ1 of the MDE DPD and particular paragraphs within the NPPF that require high quality development including paragraph 127 which seeks to ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- a) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
  - b) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
  - c) establish and maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
  - d) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
  - e) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 6.17 For the reasons set out in the preceding assessment concerning AONB impact, I do not consider that the requirements of adopted policy or the NPPF in terms of the quality of new development more generally are suitably met. As described, the apartment building in particular would be jarring and obtrusive and thus visually harmful when viewed from Common Road, Mill Lane and Maidstone Road.
- 6.18 I have given consideration as to whether any planning conditions could successfully overcome these harms but there are none that would adequately do so.

*Impact on residential amenities:*

- 6.19 The nearest neighbouring properties are located to the south, no. 8 The Downs, to the east, 2 Mill Lane, and to the north at 1 Mill Lane and 613 Maidstone Road. The layout of the development is such that the development is set away from the eastern site boundary to minimise the impact on the existing properties to the east and south and the north elevation has been set away from the site boundary to pull the structure away from the dwelling to the north. As a result of this the development would be positioned at least 10m away from the nearest existing residential properties. The distances and the form of the development is such that it would not lead to harmful overshadowing resulting in a loss of daylight or sunlight to the surrounding properties.

6.20 The development would not result in issues of overlooking or loss of privacy to the surrounding properties. The relationship between the proposed dwellings and the adjacent properties is such that there would not be direct overlooking of neighbouring windows. The relationship between the site and its surroundings would also ensure that the development would not lead to a loss of privacy to the surrounding properties.

6.21 As such, the development would not cause any harm to residential amenity to justify a refusal on such grounds.

Highway safety and parking provision:

6.22 The development proposes parking at a ratio of 1 space per flat and two spaces per house with two visitor spaces for the flat building and scope for informal visitor parking along on the private access drive to the houses. These levels of provisions accord with the minimum parking standards for development within locations such as this as set out in IGN3 and are therefore considered acceptable.

6.23 I am aware that draft policy LP42 of the local plan sets out an ability to take account of local circumstances including the layout of the development, the mix of dwellings, the character of the local area and the proximity of public transport nodes when determining what would represent an acceptable proportionate provision of parking. By the time of the APC3 meeting the Plan will have been submitted to the Secretary of State. However, Members will be aware that this draft policy can carry with it very little weight for decision making purposes at this time because it has yet to be tested at examination by the Secretary of State. As such, it cannot be relied upon as a reason to seek additional parking to serve this scheme or as a reason to seek a higher level of parking to serve the development or to resist the development at this time.

6.24 With regard to traffic generation, paragraph 109 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 this instance it is not considered that the proposals will generate a level of traffic that is likely to have a residual cumulative impact on the road network that could be described as "severe". The development would therefore not have an unacceptable impact on the local road network and would accord with the guidance contained in paragraph 109 of the NPPF.

6.25 The setting of the flat block away from the Mill Lane junction will ensure that adequate visibility remains at the junction. Comments have been received regarding the lack of detail on refuse storage provision. It is considered that there is space available within the site for storage and details of this provision can be sought by condition.

Planning obligations:

- 6.26 Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 states that planning obligations must only be sought where they meet all of the following tests:
- 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.
- 6.27 These tests are repeated in paragraph 56 of the NPPF.
- 6.28 A development of this quantum would normally be expected to provide an element of affordable housing provision with Policy CP17 requiring that 40% of the units overall should be affordable. In this instance a policy compliant development would provide 6 units of affordable housing.
- 6.29 The applicant has though stated that the viability of the development is such that with the amount of development proposed the scheme is financially marginal and therefore would not be able to support affordable housing provision in any form. It is suggested that the viability of the development and the ability to provide for affordable housing would necessitate a larger scale development on the site which conversely result in all likelihood a greater amount of harm overall.
- 6.30 The same arguments are put forward by the developer in connection with the requirements of adopted policy OS3 of the MDE DPD to provide for open space off-site. But at the same time, the applicant acknowledges the need to provide for education provision and sets out that their viability work concluded some scope to make a financial contribution which they have earmarked for primary education (in response to KCC representations on the matter). This would amount to a total of £25,761 towards Tunbury Primary School.
- 6.31 Whilst the attempts made by the applicant to meet some of its obligations in order to mitigate impacts of the development are noted, the statutory test does not allow for obligations to effectively be “cherry picked” in this manner but rather there is a need to start with the development plan and establish whether there are any material considerations which indicate a move away from those adopted policies (s38 (6) of the Planning and Compulsory Purchase Act 2004).
- 6.32 The arguments surrounding the “marginality” of the viability of the scheme are essentially predicated on the price paid for the site prior to the demolition of the pub. The PPG is abundantly clear in this respect and states that where viability assessments are used to inform decision making under no circumstances will the price paid for land be a relevant justification for failing to accord with the relevant

policies in the plan. There are no other exceptional costs or circumstances that would have implications for viability or indicate a move away from adopted policy.

- 6.33 Given the harms that have already been identified as arising from this specific scheme, when viewed alongside the acknowledged benefits of the site being redeveloped in a broader sense, the obvious conclusion in this respect would be for a more modest scheme of redevelopment to be conceived, further viability work to be undertaken and then a further assessment as to relative merits could be undertaken.

Other material considerations:

- 6.34 Paragraph 170 (f) states that planning decisions should contribute to and enhance the natural environment inter alia by remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate. It is noted that no specific details have been provided with regard to potential site contamination. Given that this site is previously developed land, there is the potential for contamination to exist. Investigations and necessary remediation could be secured by planning condition in the event that the development was found to be acceptable in all other respects.
- 6.35 Paragraph 163 (c) states that developments should provide sustainable drainage systems (SUDS). This is supported by Policy CC3 of the MDEDP DPD 2010 which requires developments to provide SUDS. Again, in the event that the development was found to be acceptable, it is commonplace for such details to be secured by planning condition.
- 6.36 The site is in close proximity to the A229 Bluebell Hill and therefore development on the site has the potential to be impacted by road traffic noise. Specific design features built into schemes can adequately address such matters in a technical way.

Conclusions:

- 6.37 The site as it currently exists is undoubtedly in a poor condition and is detracting from the appearance of the locality. It is accepted that in the broadest of terms the way in which to improve the condition of the site in the long term is to grant planning permission for its redevelopment. However, it is equally important that the redevelopment that does come forward is of a high quality, respects its surroundings and causes no planning harm.
- 6.38 It is accepted that the Council cannot currently demonstrate a five year supply of housing when measured against its objectively assessed need. However, in this case the proposed development of the site would not conserve and enhance the AONB meaning that the application of restrictive policies within the NPPF lead to a clear reason for refusing the development. This means that despite the

absence of a five year housing supply, the presumption in favour of development does not apply.

- 6.39 Furthermore, the apartment building in particular when viewed alongside the immediate existing built development would jar in visual terms and appear obtrusive within the immediate street scene, causing visual harm contrary to adopted policy which requires high quality development to ensue.
- 6.40 In addition, I am not convinced by the proposed strategy for attempting to mitigate the impacts of the development which seeks to provide a contribution to primary education but sets out that limited viability means there is no scope to provide for affordable housing or open space provision. This approach does not, on the face of it, meet the statutory tests and at this time there is no overriding justification for allowing the development to come forward without such provision being met.
- 6.41 I return to the fact that officers and the applicant have been involved in lengthy negotiations in attempts to arrive at an acceptable scheme for this sensitive site. However, given the length of time already involved in those negotiations which have not brought to fruition a scheme that is acceptable in all respects, I now consider it appropriate to recommend that planning permission be refused.

## **7. Recommendation:**

### **7.1 Refuse planning permission** for the following reasons:

#### **Reasons**

- 1 The proposed development, by virtue of its overall density, scale and design would fail to preserve and enhance the local character, qualities and distinctiveness of the Kent Downs Area of Outstanding Natural Beauty, as set out in the Kent Downs Management Plan. As such, the proposed development fails to meet the requirements of the restrictive policy contained within the National Planning Policy 2018 at paragraph 172.
- 2 The proposed development, by virtue of the height, scale, massing, form and design of the apartment building, would appear out of keeping with the prevailing character of the built environment along Common Road, Mill Lane and Maidstone Road and would appear as an obtrusive form of development when viewed from these surrounding roads. As such, the development would cause visual harm to the street scene and visual amenities of the wider locality contrary to the requirements policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007, policy SQ1 of the Tonbridge and Malling Borough Managing Development and the Environment DPD 2010 and the requirements of paragraph 127 of the National Planning Policy Framework 2018.

- 3 The Local Planning Authority is not convinced on the basis of evidence placed before it to date that there are material considerations indicating a divergence from adopted policies CP17 of the Tonbridge and Malling Borough Core Strategy 2007 and policy OS3 of the Tonbridge and Malling Borough Managing Development and the Environment DPD 2010 requiring the provision of affordable housing and open space respectively.

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