

Offham
West Malling And
Leybourne

2 May 2018

TM/18/01013/OA

Proposal: Outline Application: Demolition of existing dwellinghouse (Sportsmans' Bungalow, 124 Teston Road) and outbuildings and erection of up to 120 dwellings including 40% affordable housing, with public open space, a community orchard, landscaping and sustainable drainage system (SuDS) and vehicular access point from King Hill. All matters reserved except for means of access

Location: Land East Of King Hill West Malling Kent

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1. Description:

1.1 The application seeks outline planning permission for the following development:

- Demolition of the existing dwelling (Sportman's Bungalow) and other outbuildings on the site
- Erection of up to 120 dwellings of which 40% are to be affordable housing
- Creation of a new access point from King Hill and provision of internal access roads, footpaths and cycle routes with connectivity to the public bridleway
- Provision for public open space, a play area (LEAP) and a community orchard
- Retention and management of the existing woodland area, hedgerows and other landscape features
- Provision of a soakaway surface water drainage basin

1.2 This includes approval of matters relating to the means of access, with matters of layout, scale, appearance and landscaping reserved for future consideration.

1.3 As such, a plan showing the Proposed Site Access arrangement has been provided. The access is to be 5.5m wide with 2m wide footways tied in. Visibility splays have been shown which will require existing hedgerows to be cutback/modified.

1.4 In addition, indicative plans which will guide the detailed design of the scheme (the reserved matters) in the event that outline planning permission is granted have been put forward as follows:

1.5 A Development Framework plan has been submitted that shows 3 main development parcel areas providing areas of 1.31ha, 1.31ha and 0.70ha. The existing woodland area within the eastern part of the site adjacent to the public

bridleway is to be retained and managed for amenity and biodiversity value. It has been stated that the areas of formal and informal open space for the development totals 3.32ha (49% of the site). Shared pedestrian/cycle links and bridleway paths are also proposed through the woodland and other parts of the site. A soakaway basin is proposed between the woodland and The Old Started Saint site. A LEAP is proposed within the centre of the site. A new community orchard is to be planted in the southwest corner adjacent to properties within Orwell Spike.

- 1.6 The 120 dwellings proposed are to be provided at a density of 36dph. The buildings will comprise 2-5 bedroom dwellings, generally 6-15m wide and 5-12m deep that will not exceed 2.5 storeys in height. A mix of dwelling types are proposed, including a 60/40 market/affordable split. The design and appearance of the dwellings will include gable facades, chimneys, stone lintels and entrance canopies, with the use of red brick and render external finishes with timber and stone detailing.
- 1.7 Plan details have also been submitted showing a potential 3m wide pedestrian/cycle path on the north side of the A228 linking the site to the A228/Tower View roundabout. Walking and cycling routes and footpaths are proposed within the site that will connect to the public realm. Parking is to be provided in accordance with the adopted standards in the form of garages, carports, on-plot drives, undercroft parking, on-street and limited shared parking courts.
- 1.8 The application is supported by the following documents:
 - Planning Statement (revised),
 - Design and Access Statement,
 - Heritage Statement,
 - Transport Assessment (amended),
 - Residential Travel Plan (amended),
 - Ecological Appraisal,
 - Soil and Agricultural Quality report,
 - Arboricultural Assessment,
 - Phase 1 Geo-Environmental Report,
 - Flood Risk Assessment,
 - Foul Drainage Analysis,

- Noise Assessment,
- Air Quality Assessment,
- Archaeology and Built Heritage Assessment,
- Landscape and Visual Appraisal,
- Mineral Resource Assessment,
- Statement of Community Involvement and
- Socio-economic Sustainability Statement

2. Reason for reporting to Committee:

- 2.1 Given the balance to be struck between diverging and significant material planning considerations.

3. The Site:

- 3.1 The application site is a large parcel of land (about 6.83ha in area) located on the east side of King Hill between The Old Startled Saint to the north and Nos.39 and 41 King Hill and the residential development of Orwell Spike to the south. The site also extends southwards up to the A228 and eastwards to Teston Road. It is occupied by a bungalow with associated outbuildings situated immediately to the southeast of The Old Startled Saint. The remainder of the land comprises woodland within the eastern part and an arrangement of grazing fields, divided by lines of trees and stock fencing. The land slopes noticeably up from northeast to southwest.
- 3.2 A small cluster of residential properties lie along the northern side of Teston Road opposite the northeast extent of the site. An established caravan site is situated adjacent to the eastern boundary of the site on the opposite side of the public bridleway. Ashtree Farm lies to the west.
- 3.1 The site is located within the countryside and an Area of Archaeological Potential (AAP). King Hill and the A228 are Classified Roads and Public Right of Way bridleway MR578 extends adjacent to the eastern boundary of the site. The site also lies upon a Principal aquifer.

4. Planning History (relevant):

- 4.1 None relevant.

5. Consultees:

- 5.1 West Malling PC: Objection for the following reasons:

- The proposed development would link Kings Hill to St Leonards Street - eroding the separation of these distinct settlements and increasing the urbanisation of a predominantly rural area.
- The proposed development would lead to a loss of open countryside and wildlife habitat.
- The area is part of an extension to the Greenbelt put forward in the Draft Local Plan and supported by this Parish Council.
- The existing infrastructure is insufficient to meet the demands that such a development will bring.
- In recognition of the overwhelming opposition expressed through both the applicant's consultation and responses via the TMBC planning portal.
- This Parish Council strongly objects to this application, however, should T&MBC be inclined to grant the application, we would ask that Section 106 funding be a condition of the planning permission to reflect the necessary safety measures (such as lighting and traffic calming) that will be required on King Hill.

5.2 Offham PC: Objection for the following grounds:

- In the new TMBC draft Local Plan this is on the new proposed Green Belt, and the Parish Council is surprised that the proposal was even submitted.
- If approved this proposal would result in a considerable increase in traffic through the village, there has already been considerable expense incurred on traffic calming measures to help reduce traffic problems in the village. We would ask TMBC to reject this application and continue with implementing the new proposed green belt in the Local Plan (which we strongly support) in this area to limit further development.

5.3 Kings Hill PC: No Objections to this planning application in principle but we would like to see contributions in respect of improved transport links for cyclists and pedestrians from the site to both West Malling Station and to Kings Hill, education, health care and social amenities.

5.4 EA: The comments received have been summarised below:

5.4.1 Planning permission could be granted if the suggested planning conditions are included as set out. Without these conditions, the proposed development on this site poses an unacceptable risk to the environment and we would object to the proposal in line with paragraph 109 of the National Planning Policy Framework because it cannot be guaranteed that the development will not be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution.

- 5.4.2 Controlled waters are particularly sensitive in this location because the proposed development site is located upon a Principal aquifer.
- 5.4.3 We reviewed the Phase I Geo-Environmental Report ref. SHF.1132.132.GE.R.001.A, dated February 2018 prepared by Enzygo Limited and agree with the recommendations of the report that a Phase 2 geo-environmental ground investigation should be undertaken.
- 5.4.4 It is indicated that the foul sewage will be discharged to the mains sewer. We have no objection to this approach. However, if the strategy changes the EA needs to be re-consulted.
- 5.4.5 Piling or any other foundation designs using penetrative methods can result in risks to potable supplies from, for example, pollution / turbidity, risk of mobilising contamination, drilling through different aquifers and creating preferential pathways. Thus it should be demonstrated that any proposed piling will not result in contamination of groundwater.
- 5.5 KCC (LLFA): The following comments were received:
- 5.5.1 We understand that infiltration is being proposed by an infiltration basin, in this location we would normally expect to see the utilisation of deep bore soakaways which may provide an improvement in the infiltration rate of 0.09m/hr.
- 5.5.2 However, the underlying strata is the Hythe Formation (Ragstone) in which there is a risk of encountering loosely infilled features known as 'gulls'. The installation of soakaways may lead to ground instability if these features are present and are inundated with water. As part of the detailed design, we would expect for ground investigation details to be provided to determine the potential instability risks associated with infiltration drainage into these deposits (Should the applicant choose to use soakaways). At the detailed design stage, we would expect to see the drainage system modelled using FeH rainfall data in any appropriate modelling or simulation software.
- 5.5.3 Where FeH data is not available, 26.25mm should be manually input for the M5-60 value, as per the requirements of our latest drainage and planning policy statement (June 2017).
- 5.5.4 Should your local authority be minded to grant permission for this development, conditions are recommended.
- 5.6 Highways England: Final comments received on 08 March 2019 confirming that peak hour generation associated with the proposal would not result in a severe impact on the Strategic Road Network (SRN) and therefore will not materially affect the safety, reliability and/or operation of the SRN (the tests set out in DfT C2/13, para. 10 and NPPF para. 109). Therefore we do not offer any objections or requirements relating to the proposal.

5.7 KCC (H&T): Original Comments: The Transport Assessment correctly identifies that Kings Hill phase 3 will need to be included as committed development as part of the assessment. The Transport Assessment indicates (paragraph 6.5.3) that the development flows from this are shown in Figures 5 and 6. On looking at these figures I believe them to be incorrect. I would be grateful if, in the first instance, the applicant's consultant could look at this element of future traffic flows. It appears that subsequent summations leading from this are also therefore incorrect.

Further representations received:

5.7.1 Following my e-mail to you of 24th August regarding this application, I have undertaken further study and discussions with the applicant's transport consultant and colleagues. It is noted from the revised Transport Assessment submitted that as well as the Tower View roundabout, the King Hill/A228 Malling Road roundabout and the A228 Malling Road/Gibson Drive roundabout are also experiencing future capacity issues which will be accelerated/brought forward by this development proposal.

5.7.2 As part of forthcoming local plan preparations, scheme options have been identified for capacity improvement at the Gibson Drive roundabout and consideration has also been given to addressing northbound Malling Road capacity issues at the King Hill/A228 roundabout. There is an existing requirement for improvements to be undertaken at the Tower View roundabout from the Kings Hill phase 3 approval, which would be of benefit to residents of this development, if approved.

5.7.3 It is noted that the outline application is for the construction of 120 units. In keeping with other typical S106 contributions specified on a per unit basis, it is considered that a contribution of £1,000 per unit would be an acceptable, non-onerous level that could create a helpful and significant benefit for needed capacity improvements at the King Hill/A228 Malling Road and A228 Malling Road/Gibson Drive roundabouts, which are relevant to the application site.

5.7.4 Programming improvements can be very difficult to co-ordinate and specify, particularly when funding from more than one source may be necessary. I would consider therefore that a return period of 10 years better suits the array of unknowns and variables that can hinder a timely implementation. It is further considered that payment of the requested contribution after occupation of 50 units would also be a timely and undemanding way towards achieving helpful local reductions in traffic delays.

5.7.5 Subject to formalising an agreement as described and in due course submission of a reserved matters application, I write to confirm on behalf of this authority that I have no objection to this outline application.

5.8 KCC (Economic Development): The following comments have been provided

5.8.1 The County Council has assessed the implications of this proposal in terms of the delivery of its community services and is of the opinion that it will have an additional impact on the delivery of its services, which will require mitigation either through the direct provision of infrastructure or the payment of an appropriate financial contribution. A summary of the requested contributions are as follows:

- Primary Education - £4,535 (towards Phase 2 Kings Hill Primary School 3 – Valley Invicta)
- Secondary Education - £4,115 (towards Phase 1 The Malling School expansion)
- Community Learning - £3,908.34 (Tonbridge Adult Education Centre additional equipment for new learners)
- Youth - £1,616.42 (towards West Malling Community Activity Team mobile youth service additional equipment for new attendees)
- Library book stock - £27,240 (Towards extra book stock and display shelving at West Malling Library)
- Social Care - £6,708 (Towards Angel Centre Changing Place facility); and 1 wheelchair adaptable home as part of the affordable housing delivery

5.9 NHS West Kent (CCG):

5.9.1 The CCG has assessed the implications of this proposal on the delivery of general practice services and is of the opinion that it will have a direct impact which will require mitigation through the payment of an appropriate financial contribution (£101,160 towards refurbishment and/or reconfiguration of West Malling Group Practice.

5.9.2 This proposal will generate approximately 281 new patient registrations based on an average of 2.34 per dwelling.

5.9.3 The proposed development falls within the catchment area of West Malling Group Practice. This need, along with other new developments in the area, can only be met through the refurbishment and reconfiguration of the existing premises or development of new premises to ensure sustainable general practice premises.

5.9.4 West Malling Group Practice is in the early stages of strategically assessing the premises development requirements and potential options for the longer term delivery of services; this will include new site options.

5.9.5 It is however important to note that general practice capacity would need to be created in advance of the growth in population so that both the infrastructure and workforce are in place. We would therefore be seeking the trigger of any healthcare contribution to be available linked to commencement of development.

- 5.10 KCC PROW: Public Right of Way MR579 runs along the eastern boundary of the application site. The plans show that access connecting the Bridleway and site will be made. Whilst I do not object to the application in principal, I would request that work be done to improve the surface of the Bridleway and generally tidy the route up.
- 5.11 KCC (Heritage): The site of the proposed development lies in an area of multi-period archaeological potential. There are no designated heritage assets on the site itself nor any known archaeological remains identified on the HER. However, St Leonards, to the north, contains several sensitive historic and listed buildings and a Scheduled Monument, St Leonards Tower. The Scheduled WWII Bofors Tower on West Malling Airfield lies a few metres to the east.
- 5.11.1 The site does have potential for prehistoric remains and there are several recorded Mesolithic finds nearby. There is also some potential for Roman remains with King Hill being on the alignment of a possible Roman road which extends down the West Malling High Street. This routeway is certainly of some antiquity and there is a locally important milestone at the south west corner of the development site. The North West corner of the site is at a crossroads, which would have been a favourable place for activity associated with medieval traffic in and out of West Malling, an important early medieval settlement and medieval market town.
- 5.11.2 There are no indications of medieval activity on the site but St Leonards was certainly a medieval settlement and associated remains may extend in to this application site.
- 5.11.3 A Union Workhouse is evident on the 1st Ed OS map and this developed to include several outbuildings and a chapel. All these buildings seem to be outside the application site but associated remains may extend into the southern part of the site.
- 5.11.4 In view of the proximity of West Malling Airfield there is some potential for associated WWII features and structures to survive on the site. There is nothing recorded but on the basis of the results of a recent historic landscape survey of Kings Hill, there is potential for as yet unrecorded WWII structures to survive on this site.
- 5.11.5 Although the Scheduled Monuments of St Leonards Tower and the WWII Bofors Tower are some distance away, in view of their historic function and character, it will be important to assess the impact on the character and setting of these important buildings.
- 5.11.6 I note the application is supported by an Archaeological Deskbased and Built Environment Assessment by Pegasus. This does provide a baseline assessment of the historic environment and is acceptable. However, it is rather brief on the historic importance of the Union Workhouse and on the WWII military potential and

I would welcome a more in depth assessment prior to confirmation of detailed mitigation measures for heritage. It would be particularly useful to undertake a focused site walkover and documentary study of military maps, to ascertain the potential for WWII structures.

- 5.11.7 There may also be a need for detailed mitigation measures to secure the protection and preservation of the locally highlighted milestone at the south west corner of the site, if it is within a proposed new access or roadworks.
- 5.11.8 On the basis of present information, archaeological issues can be addressed through condition I recommend that relevant conditions are placed on any outline consent.
- 5.12 Natural England: No objection. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected sites.
- 5.13 Southern Water: No objection raised. Our initial investigations indicate that Southern Water can provide foul sewage disposal to service this development.
- 5.13.1 No development or new tree planting should be located within 3m either side of the external edge of the public sewer and all existing infrastructure should be protected during the course of construction works
- 5.13.2 No new soakaways should be located within 5m of a public sewer
- 5.14 Kent Police: Having reviewed the on line plans and documentation for this outline planning application, we note the reference to 'Secured By Design' in paragraph 2 of Policy CP24 on page 13 of the DAS. However, the applicant/agent has not demonstrated that they have considered crime prevention and have attempted to apply the seven attributes of CPTED in their submitted on-line plans or in a DAS. Suggested conditions should be imposed.
- 5.15 Kent Wildlife Trust: No comments received.
- 5.16 Kent Fire Brigade: No comments received.
- 5.17 CPRE: Summary of comments received are as follows:
- 5.17.1 The increased pedestrian and cycle use of the Ashton Roundabout due to the proposed modal shift, combined with the increased use of the junction by site generated cars will exacerbate highway safety in an area where an existing concentration of accidents has previously occurred.
- 5.17.2 The site is remote from other residential areas and high street centres at West Malling and Kings Hill.
- 5.17.3 The proposed lengthy walks to High Street services will result in increased car use from the site.

5.17.4 CPRE advocates that the LPA gives considerable weight to the rapidly emerging Local Plan and in particular that the site will be imminently in the Green Belt and that no very special circumstances could be advanced that would overcome the harm caused to the openness of the MGB. This is because the LPA is proposing an alternative and better situated and safer location for the housing.

5.18 Private Reps: 26 + site and press notices /0X/26R/0S. The concerns raised by the objections include the following:

- The development would affect the identity and separation of Kings Hill and West Malling
- Will lead to additional traffic congestion in the area and road safety impacts
- The proposed access would be hazardous with restricted sight lines/visibility
- The development will impact on the semi-rural character of area
- The land is designated as Green Belt in the draft Local Plan
- Encroachment into the countryside and loss of fields/greenfield land
- Natural wildlife habitat, meadows and the environment will be affected.
- Shops, services, facilities and local amenities (including schools and medical practices) in the area are not adequate to accommodate the development
- Overdevelopment and not in keeping with the surrounding area in terms of density
- Noise and air pollution impacts for existing and future residents
- The road infrastructure at the top of King Hill and within the local area cannot support the additional traffic
- Drainage, soakaway and land instability concerns
- Impact on sunlight and daylight of neighbouring properties
- Impact on neighbouring amenities in relation to noise, night-time light and vehicle emissions
- There will be a loss of equestrian and grazing land
- Urbanisation of the area around West Malling
- The development would harm the West Malling Conservation Area and St Leonards Tower
- Poor pedestrian links to Kings Hill and West Malling
- Bus stops on King Hill and St Leonards Street are unsafely positioned

6. Determining Issues:

Broad Principles of the Development:

6.1 As Members are aware, the Council cannot currently demonstrate an up to date five year supply of housing when measured against its objectively assessed need (OAN). This means that the presumption in favour of sustainable development as set out at paragraph 11 of the NPPF (February 2019) must be applied. For decision taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

6.2 In undertaking this exercise, it must be recognised that the adopted development plan remains the starting point for the determination of any planning application (as required by s.38(6) of the *Planning and Compulsory Purchase Act 2004*) and which is reiterated at paragraph 12 of the NPPF. The consequence of this in these circumstances must be an exercise to establish conformity between the development plan and the policies contained within the Framework as a whole.

6.3 In terms of the principles of the development, policy CP14 of the TMBCS restricts development in the countryside to specific development listed in the policy. New dwellings, other than one-for-one replacements, are a form of development that is not listed expressly.

6.4 Policy CP6 of the TMBCS advises that development within the countryside or on the edge of a settlement where it might unduly erode the separate identity of settlements or harm the setting or character of a settlement when viewed from the countryside or from adjoining settlements will not be permitted.

6.5 I recognise that these policies are both designed to direct development to sustainable locations in accordance with the settlement hierarchies which are enshrined within policies CP11 – CP13 (inclusive). They do however go further than the policies within the Framework in terms of how they seek to restrict

development in such areas and therefore reduced weight must be afforded to non-compliance as part of the balancing exercise.

- 6.6 With these factors in mind, and in applying the presumption in favour of sustainable development, regard must first be had for whether any restrictive policies within the Framework (paragraph 11 d (i), footnote 6) provide a clear reason for refusing the development proposed. In this case, the policies that protect areas or assets of particular importance specified in footnote 6 include those in the NPPF relating to other heritage assets of archaeological interest referred to in footnote 63. As such, an assessment of these impacts must be undertaken initially and as follows:

Archaeology:

- 6.7 Footnote 63 of the NPPF states that *“non-designated heritage assets of archaeological interest, which are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets.”*
- 6.8 The site is within an AAP and the County Archaeologist (KCC Heritage) has advised that the site lies in an area where there is potential for prehistoric remains (several recorded Mesolithic finds nearby) and for Roman remains as King Hill is on the alignment of a possible Roman road.
- 6.9 Representations received in this respect have noted that although the Scheduled Monuments of St Leonards Tower and the WWII Bofor Tower are some distance away, it is important to assess the impact of the development on the character and setting of these important buildings, given their historic function and character.
- 6.10 It has been advised that the submitted Archaeology and Built Heritage Assessment provides a baseline assessment of the historic environment and is acceptable but is somewhat brief on the historic importance of the Union Workhouse and on the WWII military potential. A more in-depth assessment prior to confirmation of detailed mitigation measures for heritage has therefore been recommended but it is acknowledged that this can be satisfactorily addressed by the imposition of planning conditions.
- 6.11 The archaeological interest in the site expressed by KCC Heritage in their representations does not, in my judgement therefore, suggest a similar significance to a scheduled monument and therefore I am of the view that the development does not need to be considered subject to the NPPF policies relating to designated heritage assets.
- 6.12 With this conclusion in mind, there are no clear reasons indicating that planning permission should be refused on this basis and therefore the presumption in favour of sustainable development resurfaces to be applied and as directed by paragraph 11(d) (ii) of the NPPF, permission should be granted unless adverse

impacts of doing so would significantly and demonstrably outweigh the benefits, when the proposal is assessed against the policies in the Framework taken as a whole. It is on this basis that my assessment follows:

Locational characteristics and associated impacts:

- 6.13 Paragraph 78 of the NPPF advises that *“to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.”* Paragraph 79 then follows stating that *“planning policies and decisions should avoid the development of isolated homes in the countryside”*.
- 6.14 Given that the site technically lies within the countryside as designated – and notwithstanding my earlier commentary concerning the application of policies CP14 and CP6 of the TMBCS – and assessment of the development on this basis must take place.
- 6.15 The interpretation of isolated homes in the countryside has been clarified in the Court of Appeal judgment in *Braintree DC v SSCLG* [2018] EWCA Civ. 610. In this judgment, LJ Lindblom stated that when taken in its particular context within the policy *“the word ‘isolated’ in the phrase ‘isolated homes in the countryside’ simply connotes a dwelling that is physically separate or remote from a settlement. Whether a proposed new dwelling that is, or is not, “isolated” in this sense will be a matter of fact and planning judgment for the decision-maker in the particular circumstances of the case in hand”*. (para.31)
- 6.16 The site is immediately adjacent to the urban area of Kings Hill and although the A228 intervenes I consider that the development would, when taken in conjunction with the residential properties within and adjacent to Orwell Spike, provide a moderate spatial expansion of Kings Hill.
- 6.17 This would extend the settlement towards West Malling but no closer to this neighbouring settlement than the existing settlement of Kings Hill. To clarify, the northern extent of the application site is situated about 960m from the settlement boundary of West Malling, whereas the closest point of Kings Hill is 890m from West Malling. I do note though that the A228 does provide a more defined boundary and intervention notwithstanding its closer spatial location to West Malling.
- 6.18 Furthermore, the site is well contained between the A228, King Hill and Teston Road which would provide a clear physical limit to the development/residential expansion. The several properties on the north side of Teston Road would relate effectively to the development, as would The Old Startled Saint including its recent approved scheme for 5 dwellings (TM/18/00574/FL).
- 6.19 In light of this, I consider that the proposed scheme for new dwellings would be very close to and not physically remote from the urban settlement of Kings Hill. Given this context, the site is not considered to be isolated and would provide a

sustainable location for new dwellings and therefore the development would not conflict with paragraph 79 of the NPPF.

- 6.20 Overall, given the distance of the site from West Malling, it's very close proximity to Kings Hill and the physical characteristics of the site, I am of the view that the proposed development would not erode the separate identities of Kings Hill or West Malling or harm the setting or character of these settlements.
- 6.21 As such, in locational terms and having due regard to relevant case law and material planning considerations, I conclude that the development of this site for residential purposes in the manner proposed would not be harmful.

Character and pattern of development and impact on visual and residential amenities:

- 6.22 Policy CP24 of the TMBCS requires development to be of a high quality and be well designed to respect the site and its surroundings in terms of its scale, layout, siting, character and appearance. Policy SQ1 of the MDE DPD advises that new development should protect, conserve and, where possible, enhance the character and local distinctiveness of the area including its setting in relation to the pattern of the settlement, roads and surrounding landscape. These policies are broadly in conformity with those contained within the Framework which relate to quality of new developments.
- 6.23 In particular, paragraph 127 seeks to ensure that development will function well, be sympathetic to local character, establish a strong sense of place and create attractive, safe places in which to live, work and visit. Furthermore, paragraph 130 sets out that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development.
- 6.24 The site currently comprises a number of fields divided by stock fencing and lines of trees and an area of dense woodland/vegetation within the east/southeast that joins an established area of trees adjacent to the A228. Although trees align the King Hill frontage, views of the site can readily be obtained in both directions along this stretch. The site is also visible from adjoining and adjacent residential properties to the north and south. The site would be much less visible from the bridleway and A228 given the level of screening vegetation.
- 6.25 Although reserved for future consideration, the indicative plans provided show that the dwellings will be of a similar scale to those immediately surrounding the site and the scheme has been designed to retain and manage the existing woodland. Several bands of existing trees have also been integrated into the scheme to

provide visual breaks and features guiding pedestrian access movements within the site. Buffer areas are provided by way of a soakaway basin to the southeast of The Old Startled Saint and a new orchard to be planted to the east of Orwell Spike. The tree line along the King Hill frontage is shown to be retained and footpaths and cycle links are proposed linking the residential areas of the site to the bridleway public roads.

- 6.26 The Arboricultural Assessment submitted advises that a number of low quality trees are to be removed, with the higher value tree stock being retained and integrated into the landscape within the development. New landscaping is proposed to mitigate the loss of some of the trees. Additional tree plantings can also be required to reinforce the screening along King Hill to further reduce the visual impact of the development.
- 6.27 The new access and associated visibility splays would also intervene within the tree lined King Hill frontage which will require removal of some trees but I do not consider the visual impact of this to be significant.
- 6.28 Similarly, the parameters provided indicate that the scheme would come forward in a manner that would ensure residential amenities of existing and future residents would not be harmed. I do appreciate that the experience of surrounding land for existing residents would change through the development of this site but this does not automatically render it unacceptable in planning terms. On receipt of the relevant reserved matters, further consideration of the detail would be given and public consultation undertaken as part of that.
- 6.29 In all these respects, I consider that the development would come forward in an acceptable manner that would accord with the adopted development plan and the policies contained within the Framework.

Highway safety, capacity and parking provision:

- 6.30 Policy SQ8 of the MDE DPD sets out that before proposals for development are permitted, they will need to demonstrate that any necessary transport infrastructure, the need for which arises wholly or substantially from the development is in place or is certain to be provided.

Development proposals will only be permitted where they would not significantly harm highway safety and where traffic generated by the development can adequately be served by the highway network.

Development will not be permitted which involves either the construction of a new access or the increased use of an existing access onto the primary or secondary road network (as defined by the Highway Authority) where a significantly increased risk of crashes or traffic delays would result. No new accesses onto the motorway or trunk road network will be permitted.

Development proposals should comply with parking standards which will be set out in a Supplementary Planning Document.

Where significant traffic effects on the highway network and/or the environment are identified, the development shall only be allowed with appropriate mitigation measures and these must be provided before the development is used or occupied.

6.31 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. Paragraph 110 goes on to state that within this context, applications for development should:

a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;

b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;

c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;

d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and

e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

6.32 Paragraph 111 then sets out that all developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.

6.33 The proposed new access point is to be positioned within the King Hill frontage about 75m from the King Hill/Teston Road junction. Details of the access with associated footpaths and splays have been provided on DrgNo.2148-F01. A Transport Assessment has also been submitted.

6.34 Members will note from Section 5 of this report that the local highway Authority (KCC H&T) has reviewed the scheme submissions and have advised that they have no objection subject to the provision of a financial contribution towards improvements to the King Hill/A228 roundabout, a scheme for which is able to

come forward. This is to address northbound Malling Road capacity issues at this roundabout. This has been taken in the context of improvements to be undertaken at the Tower View roundabout relating to the Phase 3 Kings Hill approval. This can be secured by obligation or condition in line with the requirements advised by KCC (H&T).

- 6.35 It is further proposed to provide a 3m wide pedestrian /cycle path adjacent to the A228 that links the development to the established footpaths at the A228/Tower View roundabout. This would be beneficial in terms of access and connectivity to Kings Hill. Again, this can be secured under a S106 agreement.
- 6.36 In addition, a Travel Plan has been submitted for the development. This provides an action plan that includes the production of residential travel packs, undertaking of travel surveys, agreement on travel plan targets and achieving target car driver to work mode split and timescales. I consider this to be acceptable for the development given its location.
- 6.37 A condition can be imposed on any permission granted requiring layout plans to provide for car parking at a level that is in accordance with the adopted residential parking standards (Kent Design Guide Review: IGN3).
- 6.38 A public bridleway (MR579) extends adjacent to the eastern boundary of the site. The access strategy for the development shows appropriate links to the bridleway from the development. KCC PROW have no objection to this link with the bridleway but have requested that the bridleway be resurfaced and the route enhanced. As the development directly affects the bridleway and its improvement would benefit its occupants. This can be secured by legal agreement.
- 6.39 The provision of facilities to enable charging of plug-in and other ultra-low emission vehicles can also be required by condition.
- 6.40 In strategic terms, HE has now confirmed through representations that the proposed development would not give rise to any severe impact on the strategic road network.
- 6.41 In light of the above, I am satisfied that the development would not result in an unacceptable impact on highway safety and the residual cumulative impacts on the road network would not be severe. It would therefore not conflict in any way with Policy SQ8 of the MDE DPD or paragraphs 109-111 of the NPPF.

Other material considerations:

- 6.42 Policy NE2 of the MDE DPD requires that the biodiversity of the Borough and in particular priority habitats, species and features, will be protected, conserved and enhanced.

- 6.43 Policy NE3 states that development that would adversely affect biodiversity or the value of wildlife habitats across the Borough will only be permitted if appropriate mitigation and/or compensation measures are provided which would result in overall enhancement. It goes on to state that proposals for development must make provision for the retention of the habitat and protection of its wildlife links. Opportunities to maximise the creation of new corridors and improve permeability and ecological conservation value will be sought.
- 6.44 Policy NE4 1 further sets out that the extent of tree cover and the hedgerow network should be maintained and enhanced. Provision should be made for the creation of new woodland and hedgerows, especially indigenous broad-leaved species, at appropriate locations to support and enhance the Green Infrastructure Network.
- 6.45 These policies broadly accord with the policies of the NPPF. In particular, paragraph 170 states that planning policies and decisions should contribute to and enhance the natural and local environment by (inter alia) protecting and enhancing sites of biodiversity value and minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 6.46 An Ecological Appraisal report has been submitted in support of the application. The report advises that the site contains 6 fields containing species poor semi-improved grassland, a single area of well managed improved grassland, sporadic mature trees (generally hedgerow boundaries), a remnant orchard, a dense area of broadleaved woodland and hedgerows. To compensate the loss of grassland, informal areas will be planted with species rich grassland and a new community orchard will be created to compensate the loss of the remnant orchard. The woodland area would be enhanced by the creation of woodland glades and provision of a footpath to increase light which would have biodiversity benefits. Hedgerows will be retained, and additional compensatory plantings proposed.
- 6.47 In terms of protected species, the report concludes that further surveys are required in respect to bats, hazel dormice and reptiles. It also provides advice for the protection of birds and mammals and advises that bat roosting opportunities should be designed into the scheme and lighting be provided only after having regard to good practice guidance. There are no habitats within the site for Great Crested Newts. It is also suggested that a CEMP be submitted prior to commencement.
- 6.48 It is noted that Natural England has advised that the development would not result in any significant adverse impacts on statutorily protected sites.
- 6.49 I am therefore satisfied that the development would not harm protected species and would have a net positive effect on habitats and biodiversity on the site which would be an overt benefit arising from the development. The proposal therefore

accords with local and national policy focused on maintaining and enhancing biodiversity.

6.50 These matters can all be reasonably secured by a combination of planning condition and/or obligation.

6.51 Policy CP9 of the TMBCS states that development of the best and most versatile land (DEFRA Grades 1, 2 and 3a) will be not be proposed in the LDF unless there is an overriding need, and

(a) there is no suitable site in a sustainable location on land of poorer agricultural quality; or

(b) alternative sites have greater value for their landscape, biodiversity, amenity, heritage or natural resources or are subject to other constraints such as flooding.

6.52 I am mindful that this policy relates to proposing sites for allocation within the LDF process rather than overtly setting out that it is intended to be applied for decision making purposes, However, in any event, the Soils and Agricultural Quality report submitted with this application advises that the site has a Subgrade 3b agricultural land classification which is categorised as 'moderate quality agricultural land'. The proposal would therefore not conflict with Policy CP9 of the TMBCS even if it were to be applied in this instance for such purposes.

6.53 Paragraph 178 of the NPPF states that planning policies and decisions should ensure that:

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

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

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

6.54 Paragraph 179 makes clear that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner

6.55 In terms of land contamination, the submitted Phase 1 Geo-Environmental Report is considered to adequately review the history and environmental setting of the site. No sources of contamination are identified on the site and the report

considers there to be negligible risks but recommends that an intrusive investigation be carried out.

- 6.56 The EA has agreed with this conclusion particularly as the site is located upon a Principal aquifer and therefore controlled waters are sensitive in this location. A number of conditions have therefore been recommended to be imposed on any permission granted, which are necessary.
- 6.57 KCC (Flood and Water Management) have advised that as the underlying strata is the Hythe Formation, there is a risk of encountering loosely infilled features known as 'gulls' and that the installation of soakaways may lead to ground instability if these features are present and are inundated with water. A detailed sustainable surface water drainage scheme has therefore been recommended that should also determine the potential instability risks associated with infiltration drainage into the mentioned deposits. Conditions have been advised which are entirely appropriate.
- 6.58 The mains sewer runs nearby to the site and Southern Water have advised that foul water for the development can be provided to this mains sewer.
- 6.59 I am therefore satisfied that, with the suggested conditions, the development would accord with paragraph 178 of the NPPF.
- 6.60 Paragraph 180 of the NPPF states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development
- 6.61 A Noise Assessment has been submitted, prepared by Noise Consultants Ltd (ref. J1011A/1/F3, dated 19 April 2018). The report details the measurement of the noise climate present at the site, compares this with appropriate standards and offers advice on the attenuation measures that could be implemented to secure an acceptable environment. The attenuation includes the provision of an acoustic fence along the boundary with the A228. The report also provides specifications for glazing and trickle ventilators to mitigate any noise impact. A condition can be added to secure this requirement. The proposal therefore accords with paragraph 180 of the NPPF.
- 6.62 Paragraph 181 of the NPPF states that planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining

individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.

6.63 In line with the conclusions of the submitted Air Quality Assessment, I am satisfied that the air quality effects of the development would not be significant. The development therefore accords with paragraph 181 of the NPPF.

The Draft Local Plan

6.64 The site is part of an area that is proposed to form part of an extension to the designated Green Belt as set out within the draft local plan which was submitted to the Secretary of State for examination on 23 January 2019.

6.65 Under paragraph 48 of the NPPF, a local planning authority can give weight to relevant policies in an emerging plan according to (1) the stage of preparation of the plan, (2) whether there are unresolved objections to the relevant policies and (3) the degree of consistency of the relevant policies with the NPPF.

6.66 Paragraph 49 then advises that this, when taken in the context of the NPPF and *“in particular the presumption in favour of sustainable development - arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:*

a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and

b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.”

6.67 Paragraph 50 goes on to make clear that where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process.

6.68 In relation to these provisions, whilst the draft local plan has been submitted to the Secretary of State for examination, this has yet to be taken forward and therefore the inclusion of the site within the Green Belt (Policy LP11) has not been tested at examination. Equally, the site in question would represent just 3% of the proposed Green Belt extension in terms of site area and would be seen directly in the context of the wider Kings Hill development, on the very edge of that existing settlement (as set out in more detail within the preceding assessment).

6.69 I can therefore conclude that limited weight can be afforded to the draft plan at this stage in respect of this site and the proposal to include the land as part of the

Green Belt extension cannot at this time represent a reasonable or justifiable ground of refusal. My conclusion being that the specific development proposed in relation to this specific site is not so substantial, or its cumulative effect so significant, that to grant permission would undermine the plan-making process in these respects

6.70 Furthermore, in terms of strategic allocations, confirmation by Highways England that this development coming forward at this time would not severely affect the strategic road network means that there would be no prejudice to any of the specific housing allocations within local plan arising from this scheme coming forward at this time.

Planning Obligations:

6.71 Regulation 122 of the CIL Regulations (2010) set out the statutory framework for seeking planning obligations and states that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

- (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

6.72 Paragraph 56 of the NPPF reflects this statutory requirement.

6.73 In addition to the matters set out above within the report concerning specific obligations that would be expected to come forward as part of this scheme, I address the following.

6.74 The scheme proposes to provide 40% of the total number of dwellings (up to 120) as affordable housing, which would be 48 residential units. The scheme therefore accords with Policy CP17 of the TMBCS. The approval of the specific size, type and tenure of affordable housing and implementation of the provision can be secured under a S106 agreement to ensure that the provision comes forward in a manner that reflects and meets local need.

6.75 Policy OS3 of the MDE DPD required all developments of 5 units or more (net) to provide an open space provision in line with Policy Annex OS3. The policy sets out that, where possible to do so, open space should be provided on-site. The indicative plans show that the development would incorporate a Local Equipped Area for Play (LEAP) in the centre of the site and natural green space in the form of the retained and managed woodland area. After taking this on-site provision into account, it has been determined that a financial contribution towards off-site open space provision is sought in this case. Again, this can be secured through s106 agreement.

- 6.76 KCC Economic Development has advised that in order to mitigate the additional impact that the development would have on delivery of its community services, the payment of an appropriate financial contribution is required. This includes contributions for primary and secondary education, community learning, library book stock and social care. Projects to which these contributions would be put towards have been outlined in the representations received and summarised at paragraph 5.8.1 of this report.
- 6.77 NHS CCG have advised that the proposal will generate approximately 281 new patient registrations based on an average of 2.34 per dwelling and that this would have implications on the delivery of general practice services in the West Malling area. Therefore, mitigation is required through the payment of an appropriate financial contribution towards refurbishment and/or reconfiguration of the West Malling Group Practice.
- 6.78 These obligations, along with that also required for highways improvements, would ensure that the effects of the development would be adequately mitigated, and that these would meet the statutory tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010.

Planning balance and overall conclusions:

- 6.79 The presumption in favour of sustainable development as set out at paragraph 11 (d) of the NPPF applies in this instance. The test in this case is whether or not there are any adverse impacts of granting planning permission that would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole
- 6.80 In terms of the benefits, the proposed development would provide 120 new dwellings which would assist in addressing the Borough's shortfall in housing supply. It would also provide 40% affordable housing with a mix of size and tenures which would contribute to addressing a recognised need for affordable housing in the Borough.
- 6.81 The proposal would not harm the local environment but would in fact provide net benefits to biodiversity.
- 6.82 Overall, and for the reasons set out throughout this report, I consider that there would be no adverse impacts of granting planning permission for the development that would significantly and demonstrably outweigh the benefits that the development would bring, when assessed against the policies in the Framework taken as a whole.
- 6.83 It is therefore recommended that outline planning permission be granted subject to the finalisation of a legal agreement securing various planning obligations as set out throughout this report and various planning conditions to ensure that the development comes forward in an acceptable, high quality fashion.

7. Recommendation:

7.1 **Grant Outline Planning Permission** in accordance with the following submitted details: Planning Statement dated 27.09.2018, Transport Assessment dated 15.06.2018, Travel Plan dated 15.06.2018, Letter dated 02.05.2018, Design and Access Statement dated 01.05.2018, Landscape Statement Appraisal dated 01.05.2018, Sustainability Report Socio-economic dated 01.05.2018, Ecological Assessment dated 01.05.2018, Soil Report 1394/1 + Agricultural Quality dated 01.05.2018, Arboricultural Survey dated 01.05.2018, Environmental Assessment SHF.1132.132.GE.R.001.A dated 01.05.2018, Flood Risk Assessment SHF.1132.132.HY.R.001.B dated 01.05.2018, Other Foul Drainage Analysis dated 01.05.2018, Noise Assessment J1011A/1/F3 dated 01.05.2018, Air Quality Assessment J3153A/1/F2 dated 01.05.2018, Archaeological Assessment P18-0017 + Heritage Assessment dated 01.05.2018, Statement Community Involvement dated 01.05.2018, Assessment Mineral Resource dated 01.05.2018, Location Plan 8233-L-01 dated 01.05.2018, Drawing 8233-L-02 H dated 01.05.2018, Drawing 2148-F01 Access dated 01.05.2018, Drawing 2148-01 A Pedestrian/Cycle Link dated 01.05.2018, Topographical Survey Topo_01_2D dated 01.05.2018, and subject to:

7.2 The applicant entering into legal agreements in respect of:

- 40% affordable housing provision
- Off-site open space provision
- Off-site highways improvements including to the bridleway
- Provision of a pedestrian/cycling path linking the A228/Tower View roundabout
- Community facilities and services (KCC Economic Development)
- General medical practice services (NHS CCG)
- Landscape and Ecological Management Plan that details how the retained woodland area, hedgerows, habitats and new landscape plantings are to be managed in perpetuity to enhance the biodiversity value of the site

7.3 The following conditions:

- 1 Details of the layout, scale and appearance of the development, and landscaping for the site, hereby permitted (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development is begun. The landscaping details shall include an implementation programme for all planting, seeding and turfing. Any trees or shrubs removed, dying, being seriously damaged or diseased within 5 years of planting shall be replaced in the next planting season with trees or shrubs of similar size and

species, unless the Authority gives written consent to any variation. The approved hard landscaping works shall be implemented prior to first occupation of those parts of the development to which they relate.

Reason: No such details have been submitted.

- 2 Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

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

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

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

- 4 Applications for the approval of the reserved matters shall be in general conformity with the design principles described in the Design and Access Statement (April 2018) and the following plans:

- Development Framework – Drg.No.8233-L-02H
- Proposed Site Access Arrangement – Drg.No.2148-F01
- Potential Pedestrian/Cycle Link - DrgNo.2148-01 A

Reason: To ensure that the parameters of the development proposed are followed.

- 5 At or before the time of the first submission of Reserved Matters pursuant to Condition 1, a revised ecological impact assessment report shall be submitted to and approved by the Local Planning Authority. The report shall include updated bat, dormice and reptile surveys and a detailed mitigation strategy to safeguard protected species, their habitats and local biodiversity. The development shall be undertaken in strict accordance with the recommendations, mitigation and enhancements detailed in the approved revised ecological report.

Reason: In the interests of minimising the impacts of the development on the wildlife habitats on the site and to local biodiversity.

- 6 At or before the time of the first submission of Reserved Matters pursuant to Condition 1, the applicant, or their agents or successors in title, shall secure the implementation of:

- i archaeological field evaluation works and historic landscape survey works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and

- ii following on from the evaluation and historic landscape assessment, any safeguarding measures (if required) to ensure preservation in situ of significant archaeological remains that are commensurate with a Scheduled Ancient Monument and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority

Reason: To ensure that features of archaeological interest are properly examined and recorded and that due regard is had to the preservation in situ of important archaeological remains.

- 7 At or before the time of the first submission of Reserved Matters pursuant to Condition 1, details of fencing around the King Hill milestone (HER NO: TQ 65 NE 383) shall be agreed with the Local Planning Authority; and no works shall take place within the area inside the approved fencing without the consent of the Local Planning Authority.

Reason: To ensure that important archaeological remains are not adversely affected by construction works.

- 8 A scheme for the pedestrian/cycle path linking the development to the A228/Tower View Roundabout shall be submitted to the Local Planning Authority for approval after consultation with Kent County Council. It shall be accompanied by a Stage 1 safety audit and shall detail any necessary associated works. The approved scheme shall be implemented prior to first occupation of the development and retained and maintained at all times thereafter.

Reason: To provide appropriate access and connectivity to the site and in the interests of highway safety.

- 9 No development above the ground shall take place until a plan showing the proposed finished floor level of the new dwellings and finished ground levels of the site in relation to the existing levels of the site and adjoining land have been submitted for the written approval of the Local Planning Authority. The works shall be carried out in strict accordance with the approved details.

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

- 10 No development above ground shall commence until details and samples of all materials to be used externally have been submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

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

- 11 No development shall commence until a Construction Environmental Management Plan detailing how the woodland, habitats and hedgerows within and surrounding the site will be protected during the construction phase. This

shall also include details of appropriate fencing to restrict access into key ecological areas, information on any timing restrictions and measures to prevent damage to sensitive ecological habitats. The development shall be carried out in accordance with the approved Management Plan.

Reason: To safeguard protected species and protect the biodiversity of the local area.

- 12 The development shall be carried out in accordance with Section 5: Discussion and Recommendations outlined in the Ecological Appraisal (fpcr, March 2018), in conjunction with any revised ecological impact assessment report that has subsequently been approved by the Local Planning Authority.

Reason: To safeguard protected species and protect the biodiversity of the local area.

- 13 No development above ground shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of boundary treatments across the site.

Reason: To protect and enhance the appearance and character of the site and locality.

- 14 None of the dwellings shall be occupied until the areas approved as part of the Reserved Matters as turning and vehicle parking space have been provided, surfaced and drained to prevent the discharge of surface water onto the highway. Thereafter those areas shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown (other than the erection of a garage or garages) or in such a position as to preclude vehicular access to this reserved turning and parking space.

Reason: Development without adequate vehicle turning and parking provision is likely to lead to hazardous on-street parking.

- 15 Foul water shall be disposed of directly to the mains sewer.

Reason: To prevent pollution of groundwater.

- 16 No lighting shall be installed in relation to the development until details of a lighting scheme has been submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall be designed having regard to *Guidance Note 08/18 – Bats and artificial lighting in the UK, Bat Conservation Trust/Institution of Lighting Professionals*. The development shall be carried out in strict accordance with the approved scheme.

Reason: To protect the visual amenity and ecology of the site and local biodiversity.

- 17 Prior to the first occupation of the development hereby approved, details of facilities for charging plug in or other ultra-low emission vehicles shall be submitted to and approved by the Local Planning Authority. The approved facilities shall be provided in accordance with a program to be agreed in writing with the Local Planning Authority.

Reason: To provide for the use of low-emission vehicles.

- 18 No development above the ground shall take place until a scheme for the storage of refuse for the development has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be provided prior to occupation of the dwelling for which it relates and shall be retained at all times thereafter.

Reason: To facilitate the collection of refuse and preserve visual amenity.

- 19 Prior to the first occupation of any dwelling hereby approved, a scheme of acoustic mitigation shall be submitted and approved in writing by the Local Planning Authority. The scheme shall include details of acoustic fences and any ventilation or specific glazing requirements for specific dwellings. The approved details shall be implemented prior to the first occupation of each affected property and retained at all times thereafter.

Reason: To protect future occupants from road traffic noise from King Hill Road and the A228

- 20 No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site has been submitted to, and approved in writing by, the Local Planning Authority. This strategy will include the following components:

1. A preliminary risk assessment which has identified:

- all previous uses;
- potential contaminants associated with those uses;
- a conceptual model of the site indicating sources, pathways and receptors; and
- potentially unacceptable risks arising from contamination at the site.

2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

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

4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are

complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

If, in seeking to comply with the terms of this condition, reliance is made on studies or assessments prepared as part of the substantive application for planning permission, these documents should be clearly identified and cross-referenced in the submission of the details pursuant to this condition.

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

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

Reasons: To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete.

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

Reasons: To ensure that the development is not put at unacceptable risk from, or adversely affected by, unacceptable levels water pollution from previously unidentified contamination sources at the development site.

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

Reason: To protect controlled waters, including groundwater.

- 24 Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of as per the runoff rates presented in the FRA (enzygo Ltd, April 2018). The drainage scheme shall also

demonstrate that silt and pollutants resulting from the site use and construction can be adequately managed to ensure there is no pollution risk to receiving waters.

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

25 No building hereby permitted in any phase shall be occupied until an operation and maintenance manual for the proposed sustainable drainage scheme is submitted to (and approved in writing) by the local planning authority. The manual at a minimum shall include the following details:

- A description of the drainage system and its key components
- A general arrangement plan with the location of drainage measures and critical features clearly marked
- An approximate timetable for the implementation of the drainage system
- Details of the future maintenance requirements of each drainage or SuDS component, and the frequency of such inspections and maintenance activities
- Details of who will undertake inspections and maintenance activities, including the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime

Reason: To ensure that any measures to mitigate flood risk and protect water quality on/off the site are fully implemented and maintained (both during and after construction).

26 No dwelling on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, has been submitted to the Local Planning Authority which demonstrates the suitable operation of the drainage system such that flood risk is appropriately managed, as approved by the Lead Local Flood Authority. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; and topographical survey of 'as constructed' features.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

Informatives

- 1 This permission does not purport to convey any legal right to undertake works or development on land outside the ownership of the applicant without the consent of the relevant landowners.
- 2 During the demolition and construction phase, the hours of working (including deliveries) shall be restricted to Monday to Friday 07:30 hours - 18:30 hours. On Saturday 08:00 to 13:00 hours, with no work on Sundays or Public Holidays.
- 3 Tonbridge and Malling Borough Council operate a two wheeled bin and green box recycling refuse collection service from the boundary of the property. Bins/box should be stored within the boundary of the property and placed at the nearest point to the public highway on the relevant collection day.
- 4 The Local Planning Authority supports the Kent Fire Brigade's wish to reduce the severity of property fires and the number of resulting injuries by the use of sprinkler systems in all new buildings and extensions.
- 5 The applicant should be aware that the disposal of demolition waste by incineration or use of bonfires on the site can lead to justified complaints from local residents and would be contrary to Waste Management Legislation.
- 6 The proposed development is within a road which has a formal street numbering scheme and it will be necessary for the Council to allocate postal addresses to the new properties, which are required to be approved by the Borough Council, and post codes. To discuss arrangements you are asked to write to Street Naming & Numbering, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or to e-mail to addresses@tmbc.gov.uk. To avoid difficulties for first occupiers, you are advised to do this as soon as possible and, in any event, not less than one month before the new properties are ready for occupation.
- 7 With regard to works within the limits of the highway, the applicant is asked to consult The Community Delivery Manager, Kent County Council, Kent Highway Services, Double Day House, St Michaels Close, Aylesford Tel: 03000 418181.
- 8 A formal application for connection to the public sewerage system is required in order to service the development, please contact Southern Water, Sparrowgrove House Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel.0330 303 0119) or www.southernwater.co.uk.
- 9 The applicant should also liaise with Southern Water to ascertain the exact position of the public sewers and should ensure that no development or tree planting is located within 3m either side of the centre line of the main sewers and that no new soakaways are located within 5m of the public sewer. All existing infrastructure should also be protected during construction works.

- 10 With respect to any proposals for piling through made ground, please refer to the EA guidance document "Piling and Penetrative Ground Improvement Methods on Land Affected By Contamination: Guidance on Pollution Prevention". NGWCL Centre Project NC/99/73. Approval of piling methodology should be discussed with the EA when the guidance has been utilised to design appropriate piling regimes at the site.
- 11 The following points should be noted wherever soakaways or other infiltration systems are proposed at a site:
- Appropriate pollution prevention methods (such as trapped gullies or interceptors) should be used to prevent hydrocarbons draining to ground from roads, made ground, hardstandings and car parks. Clean uncontaminated roof water should drain directly to soakaways entering after any pollution prevention methods.
 - No soakaway should be sited in or allowed to discharge into land impacted by contamination or land previously identified as being contaminated.
 - There must be no direct discharge to groundwater, a controlled water. An unsaturated zone must be maintained throughout the year between the base of soakaways and the water table.
 - A series of shallow soakaways are preferable to deep bored soakaways, as deep bored soakaways can act as conduits for rapid transport of contaminants to groundwater
- 12 Please note that the use of soakaways in the Hythe Beds are not recommended as they can promote instability of the geology via washout of the sandier horizons, leading to the opening and enlargement of fissures within the Hythe Beds, and subsequent collapse.
- 13 Kent County Council recommends that all developers work with a telecommunication partner or subcontractor in the early stages of planning for any new development to make sure that Next Generation Access Broadband is a fundamental part of the project. Access to superfast broadband should be thought of as an essential utility for all new homes and businesses and given the same importance as water or power in any development design. Please liaise with a telecom provider to decide the appropriate solution for this development and the availability of the nearest connection point to high speed broadband. We understand that major telecommunication providers are now offering Next Generation Access Broadband connections free of charge to the developer. For advice on how to proceed with providing access to superfast broadband please contact broadband@kent.gov.uk

Contact: Emma Keefe