

**East Malling &
Larkfield**
East Malling

21 December 2018

TM/18/03032/OAEA

Proposal: Outline Application: Redevelopment to provide up to 40 Class C3 residential units, together with landscaping, open space and other associated works. All matters reserved for future approval except for access (site 5.5)

Location: Heath Farm Wateringbury Road East Malling West Malling Kent

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1. Description:

- 1.1 Outline planning permission is sought for the construction of up to 40 residential units along with associated infrastructure and landscaping. The application indicates that provision of 40% affordable housing would be made as part of the development, with specific reference drawn to the allocation of self-build plots within a proportion of the scheme. All matters except access are reserved for future consideration.
- 1.2 Vehicular access is proposed to be taken via Wateringbury Road, at the northerly corner of the site.
- 1.3 An illustrative masterplan has been provided setting out how a development of this nature and quantum could be laid out within the site, indicating areas of landscaping and buffers around the edge of site, including along its frontage. The associated design and access statement indicates that the units would take the form of dwellinghouses, limited to a maximum of 2.5 storeys in height.
- 1.4 The submission sets out that 20 units will be open-market homes, and up to 20 self-build and custom housing units. Whilst precise details of the mix are not for determination at this stage, an indicative breakdown of the development is set out below:

Dwelling Type	No. of open market units	No. of self-build and custom units	Total
2-bed house	6	0	6
3-bed house	14	0	14
4-bed house	0	5	5
5-bed house	0	15	14

Total	20	20	40
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- 1.5 The submission goes on to explain that 40% of the total number of remaining open-market dwellings would be proposed for affordable housing units. Although the exact type, tenure and nature has not been set out, based on the indicative table above this would mean that a total of 8no. 2 and 3 bed houses would be made available for such provision.
- 1.6 Although submitted as a standalone application, this was submitted alongside four other applications by Liberty proposing residential development on parcels of land within their ownership. The application proposing the development of land to the north of Amber Lane is reported elsewhere in this agenda whilst the three other applications are to be reported separately to Area 2 Planning Committee on 29 May 2019. The outcomes of these applications will be reported as a supplementary matter for Member's information.
- 1.7 The proposed developments taken cumulatively with those applications and the application for development to the rear of Amber Lane (which appears elsewhere on this agenda) fall within Schedule 2 10 (b) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and therefore has been subject to Environmental Impact Assessment (EIA). As such, an Environmental Statement (ES) has been submitted as part of the planning application. This is prepared to assess the environmental effects of the development in line with the statutory requirements contained within the Regulations. The purpose of the ES is to inform decision making by explaining the likely significant effects that the development may have on the environment during construction and once it is complete and how they can be avoided or reduced. The EIA has been informed by a series of technical studies which form part of the ES. These studies include surveys, calculations and other forms of modelling as necessary.
- 1.8 An ES is intended to consider the likely effects of the development on its neighbours, local environment, local and regional economy, as well as the wider area. The environmental effects of the development are to be predicted in relation to sensitive receptors, including human beings, built resources and natural resources.
- 1.9 Each topic assessment is designed to attach a level of significance to the identified effects (both positive and negative), i.e. either major, moderate, minor or negligible. Short and long-term (temporary and permanent), direct and indirect effects have been assessed. The EIA Regulations require that 'cumulative' effects are also considered in the ES. 'Residual effects' are defined as those that remain after mitigation measures have been implemented.
- 1.10 The contents and conclusions contained within the ES are considered throughout the detailed assessment of the scheme which follows.

1.11 In addition, a number of other supporting plans and documents have been submitted throughout the course of the assessment of the application.

2. Reason for reporting to Committee:

2.1 Due to the fundamental conflict with the Development Plan and a requirement to balance between diverging and significant policy considerations.

2.2 In the event that Council then granted planning permission, this would be subject to referral to the Secretary of State in accordance with the Town and Country Planning (Consultation) (England) Direction 2009.

3. The Site:

3.1 The site lies within the designated countryside, outside any defined settlement confines. A small cluster of residential dwellings lies to the immediate south of the application site and the settlement of Kings Hill itself lies some distance to the west. The Wateringbury Road lies to the immediate east of the application site.

3.2 The site is currently formed of a series of fields, which are not subject to any particular forms of planning protection or designation although a number of mature, key trees are present.

4. Planning History (relevant):

TM/18/02335/EAS	EIA opinion scoping	27 November 2018
P	application	
Request for Scoping Opinion under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 for proposed residential developments		

5. Consultees:

5.1 Kings Hill PC: Objections raised on the following (summarised) grounds:

- Development of the land would be contrary to the draft local plan as this site is proposed to be included in the Green Belt extension;
- Poor access to wider facilities;
- Use of Wateringbury Road for access would have severe impact on the surrounding road network;
- Unsustainable location for housing development.

5.2 West Malling PC: Objections raised on the following (summarised) grounds:

- Contrary to policy CP14 as this would be development in the countryside;

- Land is proposed to be designated as Green Belt in the new local plan;
- Unsustainable location for housing development;
- Introduction of additional traffic onto narrow roads.

5.3 EM&L PC: Objections raised on the following (summarised) grounds:

- Site is located within the countryside;
- It is intended for inclusion within the Green Belt extension;
- The site is not adjacent to Kings Hill and is not sustainable;
- Limited and restrictive access from surrounding roads;
- No bus services;
- New access should not be allowed onto Wateringbury Road;
- Further pressures on roads;

5.4 Teston PC: Objections raised on the following (summarised) grounds:

- Inadequate access arrangements;
- Traffic generation and impacts on surrounding roads;
- Development is not sustainable.

5.5 Wateringbury PC: Objections raised on the following (summarised) grounds:

- Land is proposed to be included within the Green Belt designation;
- Impacts on highway network;
- Increase in pollution.

5.6 KCC (H&T):

Original representations received 01 March 2019 as follows:

Access

5.6.1 Use is to be made of the existing accesses with the main access to serve up to 38 plots and a second access serving 2 plots. Wateringbury Road speed limit is 40mph. a speed survey has been completed, please could the results be provided. The vision splay at Appendix A shows visibility from the main access of 2.4m x 120m but this should be checked against the speed survey results. It is likely that

trees and vegetation will need to be removed and the extent of this should be shown on a more detailed drawing. Please also provide details of the vision splay for the second access. Tracking is shown at appendix B for a refuse vehicle and it seems turning would be easier with a widened access.

Accessibility and Sustainability

5.6.2 There are no continuous footways along Watringbury Road to link with local amenities or the train station. It is proposed to link the site with the amenities at Kings Hill by way of an existing track. This is not currently a public right of way, it is unlit and the surface is poor, certainly not currently suitable for adoption. There are gates along the route. This route would not provide a safe and secure route for all. I would not agree that the site is easily accessible to public transport as the nearest train station is some 1.4km without safe walking and cycling routes. There are no bus services on Watringbury Road. The development would rely on Kings Hill bus services but the distance to the nearest bus stop is approximately 1.4km along unlit, tracks.

Impact

5.6.3 A crash cluster has been identified at the A20/New Road junction and crash remedial measures are planned by KCC highways. Errors identified on pages 10, 12, 13 of the Transport Statement to be addressed. Parking provision in accordance with IGN3 for a rural local is acceptable. Survey data is provided at Appendix C for the junctions of A26/Red Hill/Bow Road and A26/The Street. The Tonbridge Road closure for the sink hole repair may have affected this? Please confirm.

5.6.4 Committed development should include draft Local Plan allocations which now includes East Malling Research site C on New Road. Trip Generation – Phase 3 Kings Hill rates have been used and this should be compared to TRICs rural location to ensure a robust assessment. The development is expected to generate 22 two-way vehicle trips in the peak hours however alterations to the trip rates may affect this.

5.6.5 Distribution - census data used for work trips which is acceptable, however assumptions for school trips are not evidence based and not agreed. The use of TA46/97 for link capacity is questioned as this document relates to rural trunk road links which are not subject to a speed limit. I am concerned that this development will have a detrimental impact on the constrained and already congested area of East Malling. I would recommend an analysis of journey times/traffic flows be undertaken on the section between Gilletts Lane and the access to the East Malling Research Station to establish the extent of existing congestion and delays to ascertain the likely impact of the development on this section.

Conclusion

5.6.6 Additional information could be provided to address the following concerns:

- the suitability of the site accesses in terms of visibility.
- A wider access for easier turning movements at the main access.
- An assessment of the impact of the increased traffic in East Malling.

5.6.7 However, it is considered that this site is not in a sustainable location and is not readily accessible other than by car and this is contrary to the principles for the NPPF paragraph 108: *'in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:*

a. Appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;

b. Safe and suitable access to the site can be achieved for all users; and

c. Any significant impacts from the development on the transport network (in terms of capacity and congestion) or on highway safety, can be cost effectively mitigated to an acceptable degree.'

5.6.8 Additionally, the proposed development is likely to generate an increase in pedestrian traffic on a highway lacking adequate footways with consequential additional hazards to all users of the highway. For these reasons I wish to raise objection.

Additional representations received on 07 May 2019 as follows:

Access

5.6.9 The land required for the vision splay appears to be within the highway boundary and the maintenance of vegetation is limited and constrained by budgets. It is likely that without the removal of trees/shrubs the vegetation will not be managed sufficiently to secure the vision splay all year round and this presents a safety issue. The removal of trees /shrubs is required in order to secure the vision splay and a plan showing this is required.

Accessibility and sustainability

5.6.10 The concerns raised previously remain. The route between the site and Kings Hill is suitable for a public right of way but does not constitute a safe by design footway/cycleway which can be used all year round in all seasons.

Impact

5.6.11 The concerns raised previously regarding impact have not been fully addressed. The trip rates should be revised for rural locations or validated against TRICs

rates. The impact on the constrained area of East Malling may lead to safety problems. The road is narrow and reversing occurs when 2 cars cannot pass. The additional traffic generated by this development will exacerbate this problem.

Conclusion

5.6.12 Insufficient information has been provided to indicate that safe and suitable access can be provided. The proposed development is likely to generate an increase in pedestrian traffic on a highway lacking adequate footways with consequential additional hazards to all users of the highway. The site is not considered to be located in a sustainable location and the impact of the additional traffic generated by the development is likely to lead to highway safety problems. In view of the above I wish to raise objection to this application.

5.7 HE:

Initial comments provided on 14 February 2019, seeking further time to comment

Additional representations received on 05 March 2019 as follows:

5.7.1 Highways England has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the strategic road network (SRN). The SRN is a critical national asset and as such Highways England works to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

5.7.2 Highways England will be concerned with proposals that have the potential to impact on the safe and efficient operation of the SRN, in this case the M20 (and particularly in the vicinity of Junction 4).

5.7.3 Highways England responded on 14 February 2019, indicating that we need more time to review the Transport Assessment (TA) and Transport Statement (TS) which had only just been uploaded to the planning portal. We have since received additional correspondence on the 01 March 2019 indicating that the TA appendices had now been uploaded – these documents have not been reviewed at this time and further communication relating to this new information will be provided in due course.

5.7.4 By way of background, Highways England has been liaising with Tonbridge and Malling Borough Council and Kent County Council over the traffic impacts of the Regulation 19 Local Plan on the SRN, which covers the M20 Junctions 3 to 5, M26 Junction 2a and the A21 at Tonbridge. This has involved the consideration of the traffic modelling that underpins the transport assessment work to be found within the evidence base and which included the M20 Junction 4 Revised Capacity Assessment Report (October 2018). We are generally content that the Local Plan

transport impacts to 2031 can be accommodated on the SRN along the M20 and A21 without the need for any physical improvements to the associated junctions including merges and diverges.

5.7.5 In this context, having now considered the application in the context of the TA and TS (without appendices) it is apparent that the proposed development covered by these applications fall outside of the recent Local Plan Regulation 19 consultation and therefore are unlikely to have been included in the modelling assessment of 2031 impacts. Further evidence is required to justify the proposed offset of existing use status.

5.7.6 In summary we have the following comments regarding the TA and TS associated with these developments:

5.7.7 The TA section 3.2 does not directly relate the site boundaries to the sites to Phase 2 committed development i.e. the direct comparison of the sites and their relevance to Phase 2 (TM/02/03429) is not evidenced.

5.7.8 The TA section 6.1 and table 6.1 and TS section 7.1 indicate that the trip rates are “*derived from the Phase 3 TA*”. This reference should be clarified however, it appears that these rates refer to planning application 13/01535 King Hill Phase 3. The associated Kings Hill Phase 3 TA states that trip generation “*has been agreed through the scoping exercise that trip generation rates by mode of travel will be based upon those rates that were previously agreed through the 2002 SoCG*” and were agreed with HA. A sensitivity test is required using TRICS to demonstrate that these rates are still appropriate.

5.7.9 The TA section 6.2 ‘offset’ section does not clarify what of Phase 2’s 92,900 m² of commercial and 750 houses has been built out / is available for use. Section 6.2.1 states that “*The commercial land parcels of Phase 2 that are the subject of this new residential planning application have not been built out, and it is noted that the planning permissions for unimplemented Phase 2 plots has recently elapsed*”.

5.7.10 The justification for offsetting the residential element of the development with the commercial is not evidenced – the status of the consent associated with TM/02/03429 appears uncertain in terms of if all consents were actually exercised before elapsing. Furthermore the traffic baseline has changed since 2002 and since the infrastructure at the M20 J4 was built in 2006/2007 which was presumably for the purpose of accommodating the Phase 2 development as it was intended at the time. It is not clear how much of the commercial / residential elements were built out as part of the Phase 2 permission and any future amendments to the application – this needs to be further clarified.

5.7.11 The TA section 6.2.2 states “The Planning permission for Phase 2 allowed for a maximum commercial development density on any one plot at a rate of 15,000 sq ft per acre.” – a TA from the TM/02/03429 planning application does not appear to

be on line and has not been directly evidenced within the TA associated with these developments.

5.7.12 The TA section 6.2.3 and table 6.3 indicates that the “*table below sets out the trip rates and the proposed trip generation for the phase 2 commercial units on the following sites within this proposed development*” as above this is not referenced as to how the site descriptions and sizes associated with these developments, relate to the 2002 application trip rates and calculations indicated in the tables.

5.7.13 The TA table 6.2.4 and table 6.4 summarises how sites 5.1, 5.2, 5.3 and 5.6 are offset by commercial, however does not account for site 5.4 which has no planning history. Similarly the cumulative impact of all sites including 5.5 in the TS should be considered.

5.7.14 The TA section 6.2.5 acknowledges that a tidal flow direction from the change in development type. However the ability of the forward funded M20 J4 to accommodate a tidal change in flow and any associated change in trip distribution is not considered.

5.7.15 There is no overall acknowledgement of the cumulative impact of vehicles associated with all of these developments at the M20 Junction 4 – the TA section 6.3 and section 7 “impact assessments” or the TS section 7 and 8 do not consider trip distribution as far as the SRN. Trip generation as far as the M20 J4 should be included in the spreadsheet model referenced in the TA section 6.3.4 (to be provided).

5.7.16 In summary the traffic associated with these developments at the M20 Junction 4 is not clarified. We are concerned that the additional (and redistributed) traffic generated by the sites in combination could result in capacity issues in 2031. This impact has not been assessed and we are currently unable to determine if the proposal would result in a ‘severe’ impact on the 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 DCLG NPPF para 109).

5.7.17 We will provide a formal recommendation when we have assessed the modelling work and can therefore be confident that the application is in its final form. In the meantime, we would ask that the authority does not determine the application (other than a refusal), ahead of us providing a further update. In the event that the authority wishes to permit the application before this point, we would ask the authority to inform us so that we can provide substantive response based on the position at that known time.

Additional representations on received on 15 May 2019 as follows:

5.7.18 Highways England has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the strategic road

network (SRN). The SRN is a critical national asset and as such Highways England works to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

5.7.19 Highways England will be concerned with proposals that have the potential to impact on the safe and efficient operation of the SRN, in this case the M20 (and particularly in the vicinity of Junction 4).

5.7.20 Highways England responded initially on 14 February 2019, indicating that we need more time to review the Transport Assessment (TA) and Transport Statement (TS) which had only just been uploaded to the planning portal. We have since received additional correspondence on the 01 March 2019 indicating that the TA appendices had been uploaded. We responded most recently on 05 March 2019 (see attached e-mail) which reviewed the Transport Assessment (TA) dated November 2018 that indicating that further information and evidence was required. An updated PBA Technical Note (TN) dated 8 April 2019 directly responded to the 05 March Highways England comments has been received. We have now reviewed this TN and have the following comments.

5.7.21 It is notable that a number of issues raised in our 05 March response have not been directly addressed and information requested has not all been provided to our satisfaction. Therefore Highways England has undertaken its own analysis on the cumulative impacts of these developments on the M20 Junction 4. Accordingly, we have now satisfied ourselves that the level of impact likely to result from the proposals, as outlined in the TN (i.e. 107 AM peak hour trips and 89 PM peak hour trips) can be accommodated on the SRN without resulting in a 'severe' impact on the 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's 9 & 10 and DCLG NPPF para 109). Therefore we do not offer any objections or requirements relating to the proposals and I attach our HEPR form to this effect.

5.7.22 However, it should be clarified that, once these and other recent developments that have been assessed and approved in the vicinity have been constructed and occupied, then the available spare capacity at the M20 Junction 4 is likely to be minimal and accordingly further additional trips are likely to severely affect the safety, reliability and / or operation of the junction to the extent that substantial mitigation will be required. It is therefore unlikely that Highways England will accept any further development that will impact M20 Junction 4 without accompanying improvements to the junction.

5.8 EA: No objections subject to the imposition of conditions

5.9 KCC (LLFA): No objections subject to the imposition of conditions

5.10 SWS: Comments provided concerning connection to the public sewer, informative in the event of a grant of planning permission requested.

5.11 KCC (Heritage): Recommends a condition securing an archaeological watching brief be imposed.

5.12 KCC (Economic Development): Contributions sought as follows:

- Primary Education - £181,400 (towards Valley Invicta Primary School)
- Secondary Education - £164,600 (towards Phase 2 Judd School expansion)
- Community Learning - £1,302.77 (Commissioning of community learning classes, arts and culture events at Kings Hill)
- Youth - £538.81 (towards providing sports and IT equipment and storage for KCC commissioned youth services at Kings Hill)
- Libraries - £7,017.94 (Towards community outreach library services at Kings Hill)
- Social Care - £2,236 (Towards providing new or adopted facilities for those with physical or learning disabilities at Kings Hill or West Malling and for the installation of assistive technology in housing units within the development)

5.13 KFRS: Means of access considered satisfactory.

5.14 Kent Police: No comments received

5.15 CCG: Contribution of £50,652 sought towards refurbishment, reconfiguration or extension at West Malling Group Practice and/or Wateringbury Surgery or towards new general practice premises.

5.16 KWT: No comments received

5.17 NE: No comments to make

5.18 BHS: Requests that the application be used as an opportunity for the Council to ensure equestrian routes in the area are provided for.

5.19 Private Reps: 5 + site + press notices: 0X/53R/1S. Objections raised on the following grounds:

- Site lies within the countryside and policy CP14 prohibits development unless a stated exemption, which this is not;
- Site is not allocated for development in the draft local plan;
- Site is proposed to be included within the Green Belt extension in the draft local plan;

- No easy access to local facilities to support the increased population – site is detached from Kings Hill;
- Impact on roads resulting from additional traffic;
- Infrastructure cannot cope with additional houses;
- No bus routes to serve the development;
- Adequacy of parking to serve the new houses;
- Access onto Wateringbury Road would not be safe;
- Impact on protected species;

5.19.2 Letter of support given creation of jobs, affordable housing and in assisting the Council meeting housing targets.

6. Determining Issues:

6.1 The LPA is required to determine planning applications in accordance with the adopted Development Plan unless material planning considerations indicate otherwise. The Development Plan currently in force comprises the TMBCS (September 2007), the DLA DPD (April 2008), the MDE DPD (April 2010) and the saved policies of the TMBLP. The policies contained within the NPPF and the guidance contained within the associated NPPG are material considerations.

The five-year supply of housing and presumption in favour of sustainable development:

6.2 Policy CP15 of the TMBCS sets out a requirement for the provision of at least 6,375 dwellings in the plan period 2006 – 2021, equating to 450 units per year. Historically the Council has persistently over-delivered on that requirement due to a highly successful strategy of allocating sites through plan making right across the Borough including the Kings Hill airfield along with many that had historically been used for a range of industrial and manufacturing activities but had reached a natural end of operational life. Those sites in some cases are continuing to be delivered but many have been in residential use for some time and inevitably there are fewer sites representing similar opportunities now.

6.3 At the time of writing this report, the Council cannot demonstrate a five year housing land supply. For decision making purposes this means that the presumption in favour of sustainable development as set out in paragraph 11 of the NPPF falls to be applied.

6.4 Paragraph 11 of the NPPF states that planning decisions should apply a presumption in favour of sustainable development. Under paragraph 11(d), the presumption means that where there are no relevant development plan policies, or

the policies which are most important for determining the application are out-of-date, permission should be granted unless:

- i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (footnote 6); or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

6.5 There are no areas or assets of particular importance across any of these three sites that trigger the application of policies as referenced at paragraph 11(d)(i) and as such, this means that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. It is on this basis that the assessment takes place below.

6.6 Within this context, I therefore seek to firstly address the benefits that would be derived from residential development of these three sites in order that they may be balanced against any identified adverse impacts as the assessment takes place.

Benefits of the proposed developments

6.7 Contribution to the supply of market housing land: The scheme would provide for up to 40 residential units, which would contribute towards the housing land supply in the borough and this must be attributed weight in favour of the development taking place. It is recognised that as the Council cannot demonstrate a five year supply of deliverable housing sites at this time the provision of new homes would be a benefit weighing in favour of the scheme.

6.8 Provision of affordable housing: The Council accepts there is a need for affordable housing in the borough. A policy compliant 40% provision of the units for market sale is proposed which would be considered as a further benefit weighing in favour of the developments taking place.

6.9 Provision of self-build plots: The Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) provides a legal definition of self-build and custom housebuilding. The Act does not distinguish between self-build and custom housebuilding and provides that both are where an individual, an association of individuals, or persons working with or for individuals or associations of individuals, build or complete houses to be occupied as homes by those individuals.

6.10 The Act sets out that in considering whether a home is a self-build or custom build home, relevant authorities must be satisfied that the initial owner of the home will

have primary input into its final design and layout. Annex 2 of the NPPF provides the policy definition as being:

Housing built by an individual, a group of individuals, or persons working with or for them, to be occupied by that individual. Such housing can be either market or affordable housing. A legal definition, for the purpose of applying the Self-build and Custom Housebuilding Act 2015 (as amended), is contained in section 1(A1) and (A2) of that Act.

- 6.11 Responsibility for keeping a self-build and custom housebuilding register falls to “relevant authorities” as set out in section 1 of the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016); in this case TMBC.
- 6.12 There are statutory duties placed on Local Authorities within the Act which are concerned with increasing the availability of land for self-build and custom housebuilding. These duties are the ‘duty to grant planning permission’.
- 6.13 Having a ‘duty to grant planning permission’ means that relevant authorities must give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area. The policy framework for making decisions as to whether to grant planning permission in this respect is as follows:
- 6.14 Paragraph 59 of the NPPF states that to support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
- 6.15 Paragraph 64 goes on to state that where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups. Exemptions to this 10% requirement should also be made where the site or proposed development:
- a) provides solely for Build to Rent homes;
 - b) provides specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly or students);
 - c) is proposed to be developed by people who wish to build or commission their own homes; or

d) is exclusively for affordable housing, an entry-level exception site or a rural exception site

- 6.16 A total of 138 individuals and one association (of five individuals) are on the Council's register at present. This number may change going forward as the Council is currently considering whether to introduce eligibility criteria as provided for by the Act. To date, no planning permissions have been expressly granted for self-build plots although some applicants do seek to make reference in submissions to developing sites themselves under the notion of self-build, which is not aligned with the definition in any event.
- 6.17 Whilst in the abstract, the provision of self-build plots within the Borough is to be welcomed given that a need exists and is a benefit to be weighed in the overall balance, very little in the way of substantive information has been set out as to how this might be provided. I accept that such detail could be secured through planning obligation in the event that the development was acceptable in all other respects but insufficient information has been provided in order to fully understand that it would be possible to deliver this in an acceptable manner or whether evidentially there is a tangible need for 20no. 4 and 5 bedroomed units in this part of the Borough. This, in my view, reduces the weight that should be afforded to this provision as a benefit in the overall balance.
- 6.18 Provision of open space: Some, albeit relatively vague, indication is made within the submission regarding the provision of open space. Such provision would be expected from any development of this size and whilst it would have some limited benefit, this is really no more than achieving compliance with policy directed to ensuring high quality, and well integrated developments ensue.
- 6.19 Associated economic benefits: It is recognised that the developments both during construction and following occupation of the dwellings would generate some localised economic benefit in broad terms. This should be attributed some weight but nothing more than would be expected in any development of a similar nature.
- 6.20 Taking into account the above, the proposal would offer benefits to which significant weight should be attached in the balance. Even so, it is noteworthy that these same benefits would be forthcoming from another, suitably located, housing scheme that provides policy compliant contributions to affordable housing, etc.
- 6.21 Following the requirement of the NPPF paragraph 11 (d) (ii), I now consider below the impacts of the proposals in turn.

Locational characteristics and associated impacts:

- 6.22 The site is located outside any defined settlement confines and therefore lies within the countryside. A recent appeal decision concerning residential development elsewhere in the Borough has confirmed that in the absence of a five year housing land supply, policy CP14 of the TMBCS, which historically has

sought to restrict development outside of settlement confines, is out of date and the weight to be afforded to it is therefore reduced.

- 6.23 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”* unless one or more of a list of certain circumstances apply.
- 6.24 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)
- 6.25 Although the site demonstrably is separate from both Kings Hill and East Malling village, its particular location could not in all reasonableness be said to be “isolated” within this sense. As such, in this case there is no requirement for the development to meet the exceptions specified at paragraph 79 of the NPPF.
- 6.26 Notwithstanding this conclusion, I am mindful that more broadly there are three dimensions to sustainable development identified at paragraph 8 of the NPPF; an economic role, a social role and an environmental role. It is policies of the Framework taken as a whole that constitute the Government’s view of what sustainable development means in practice for planning. This is distinct from the strict application of the presumption in favour of sustainable development which arises only in circumstances where a five year housing land supply cannot be demonstrated (the application of which is contained throughout the body of this report as necessary).
- 6.27 Paragraph 8 of the NPPF sets out that achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives). Within the context of this development, I consider as follows:
- 6.28 The economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure. I consider that the contribution the development would make to this objective to be neutral, it would contribute in a limited way to the provision of housing in general terms but nothing more.

6.29 The social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being. Whilst housing would be provided, including an element of self-build, I do not consider that this objective overall would be met given the resultant environment that would be created (discussed in detail later in this report) but also given that it would not be well located or linked to surrounding facilities or amenities.

6.30 Linked to this, paragraph 102 states that transport issues should be considered from the earliest stages of plan-making and development proposals, so that:

- a) the potential impacts of development on transport networks can be addressed;
- b) opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated;
- c) opportunities to promote walking, cycling and public transport use are identified and pursued;
- d) the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains; and
- e) patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.

6.31 Paragraph 103 makes clear that the planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.

6.32 In these respects, KCC (H+T) has made an assessment that there are no continuous footways along Wateringbury Road to link with local amenities or the train station. Reference has been made within the submission to the ability to link the site with the amenities of Kings Hill by way of a track. My understanding is that this is not currently a public right of way and KCC (H+T) have confirmed that this would not be suitable for adoption given that it is unlit and the surface is poor. Furthermore, there are gates along the route and considering this in totality it is not

considered that the route would provide a safe or suitable access for all. It is not considered that the site is easily accessible to public transport as the nearest train station is some 1.4km without safe walking and cycling routes. There are no bus services on Watlingbury Road. The development would rely on Kings Hill bus services but the distance to the nearest bus stop is approximately 1.4km along unlit, tracks.

- 6.33 Through submission of a brief technical note, the applicant has sought to address these concerns by setting out the following:

PBA need to highlight that the delivery of this sustainable access, and potential for an additional emergency access is not a requirement for this size of site (namely under 50 dwellings) as per the Kent Design Guide. However, it is being promoted as it gives extra value to the site in comparison to other land parcels on the Watlingbury Road corridor.

As such, Liberty are happy to consider improvements to the route, and PBA have noted the 'Loose Greenway' (KCC LGF-funded scheme) as a useful comparator in terms of lighting (or absence thereof), surface, edging and signage. The Loose Greenway has been constructed to a standard used by Sustrans over many years, being a stone base course topped with a limestone fines surface material which allows good access by parents with push chairs, the mobility impaired, cyclists and walkers alike. The photos shown below show the existing facility linking Heath Farm to Kings Hill, while those on the right of the Loose Greenway. Clearly the existing facility already has a good quality base course and the proposals would require only edging and the limestone fines top layer to be applied to bring this up to the common standard.

If it was felt that some safety lighting was necessary, low level bollards could be installed

- 6.34 The suggestions put forward above do not offer a clear scheme that would come about that would overcome the locational difficulties of this site. Moreover, no detail has been provided as to how such a scheme might come forward in an acceptable manner and no design has been suggested. I therefore do not consider that these suggestions go anyway to overcoming the fact that the application proposes development in an unsustainable and poorly connected location.
- 6.35 I would make clear that the earlier conclusion that the development could not be said to be isolated does not immediately align with being sustainable in locational or accessibility terms.
- 6.36 The environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including

moving to a low carbon economy. I consider that the harms arising from the development (discussed below) would not contribute to this objective.

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

- 6.37 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.
- 6.38 Paragraph 127 of the NPPF sets out that planning policies and decisions should ensure that developments:
- a) 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;
 - b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
 - c) 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);
 - d) establish or 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;
 - e) 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
 - f) 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.
- 6.39 Paragraph 130 goes on to state 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. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).

6.40 The application proposes to introduce new residential development at a high density in what is a distinctly rural landscape. Although it is appreciated that the settlement of Kings Hill lies (as the crow flies) in relatively close proximity to the site, the prevailing character of this site shares none of its physical or environmental characteristics with this settlement. Moreover, whilst the site lies adjacent to a small cluster of residential dwellings, these take the form of a distinct group of converted rural buildings and the housing estate that would effectively engulf northern edge of this cluster would bear no resemblance to its form or density.

6.41 Similarly, the detached and semi-detached houses that occupy plots sporadically along the other side of Wateringbury Road are low density housing stock commensurate with the location and tend to front the highway. Again, these are characteristics that have in no way been reflected in the indicative approach to layout in this scheme. I am mindful that the scheme is in outline form but it is demonstrably not possible to provide for the quantum of development as proposed on this application site without in coming forward in a layout that would be completely at odds with the prevailing character of the rural locality here.

6.42 As such, and for these reasons, the development as proposed would demonstrably **not**:

- Respect the site and its surroundings in terms of its scale, layout, siting or character (policy CP24).
- Protect, conserve or enhance the character and local distinctiveness of the area including its setting in relation to the pattern of the settlement, roads and surrounding landscape (policy SQ1)
- Be sympathetic to local character, including the surrounding built environment and landscape setting (paragraph 127(c))
- Take opportunities available for improving the character and quality of the area and the way it functions (paragraph 130)

6.43 For these reasons, the development proposed demonstrably fails to meet the requirements of the NPPF (and the adopted development plan) which demand high quality places that have proper and careful regard to surrounding context. As such, the development would result in significant adverse impacts on the immediate environment and the visual amenities of the locality.

- 6.44 Notwithstanding these conclusions, it should be noted that the development would not cause any overt harm to residential amenity expressly. Whilst it would irrevocably change the outlook from the residential dwellings closest to the application site, this in and of itself would not cause any planning harm. This is by virtue of the fact that landscape buffers are shown to be provided and that suitable separation distances are shown as being possible to be accommodated within the indicative layout. It is important to recognise that any right to a view is not a material planning consideration and cannot be determinative in this case.
- 6.45 Similarly, in terms of potential impacts to the amenities of future occupiers, sufficient evidence has been provided to demonstrate that the dwellings could achieve satisfactory noise climates through introduction of specific measures.

Highway safety, capacity and parking provision:

- 6.46 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.

- 6.47 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.

6.48 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.

6.49 In these respects, KCC (H+T) have, to date, provided clear technical advice, which is twofold. Firstly, that the proposed access to serve the 40 residential units, based on the information submitted, is inadequate. Secondly, that the development would cause harm to the local highway network in terms of increased traffic movements, particularly around the constrained area of East Malling which already suffers from problems given the narrow road.

6.50 The applicant has sought to address these objections (provided by KCC (H+T) within their representations dated 15 May 2019 and reproduced at paragraphs 5.6.18 – 5.7.22 of this report) through the submission of a technical note. I also understand that officers from KCC have met with the applicant and their highways consultants very recently and I have been advised that consequently KCC (H+T) are now satisfied that the development could come forward in a manner that would not adversely affect the local network or cause an adverse highway safety impact and that their objections in these respects have been overcome. Whilst final formal representations are awaited and will be reported to Members as a supplementary matter there is no justified basis on which to raise a highways based reason for refusal to this scheme.

6.51 The commentary provided concerning the accessibility and sustainability of the site is addressed separately elsewhere in this report.

Biodiversity and nature conservation:

6.52 Local authorities have a statutory duty to have regard to conserving biodiversity as part of policy or decision making (section 40 of the Natural Environment and Rural

Communities Act 2006). 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.

- 6.53 Policy NE3 states that development which 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.
- 6.54 Policy NE4 further sets out that the extent of tree cover and the hedgerow network should be maintained and enhanced. Provision should be made for the creation of new woodland and hedgerows, especially indigenous broad-leaved species, at appropriate locations to support and enhance the Green Infrastructure Network.
- 6.55 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.
- 6.56 I am satisfied that, on the basis of the submission and the suggested mitigation put forward within the ES, impacts on biodiversity and ecology could be adequately addressed so as to accord with the requirements of these policies.

Ground conditions and land contamination:

- 6.57 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.

- 6.58 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
- 6.59 Ground conditions are addressed in Chapter 11 of the ES and this confirms that in most cases there would be a negligible environmental impact arising and that in the case of soil contamination a minor beneficial effect in the long term at local level as a result of necessary remediation measures. The conclusions in these respects appear to be sound and as such, the application accords with paragraph 178 of the NPPF.

Flooding and drainage:

- 6.60 Policy CP10 of the TMBCS states that within the floodplain development should first seek to make use of areas at no or low risk to flooding before areas at higher risk, where this is possible and compatible with other policies aimed at achieving a sustainable pattern of development. Similarly, paragraph 155 of the NPPF sets out that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future).
- 6.61 Chapter 12 of the ES addresses drainage and flood risk across the sites in question. It sets out that the proposed development would lie within Flood Zone 1, where residential development is considered to be a compatible land use. A drainage strategy report (Appendix 12.2 to the ES) outlines the embedded mitigation in respect of surface water during the operational phase of the development and this has been the subject of consultation with KCC as LLFA who have confirmed that this is acceptable. Overall, during both the construction and operational phases of the development, the likely effects on watercourses, flood risk and groundwater quality are found to be of negligible significance. There are no further mitigation or enhancement measures put forward as a result.
- 6.62 In these respects, I am therefore satisfied that the proposed development would accord with local adopted and national policy.

The draft local plan

- 6.63 Members will be aware that the draft local plan has been submitted to the Secretary of State but that no date has been set as yet for the examination to take place. This site does not feature as proposed allocations for housing development within the overall strategy
- 6.64 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.

6.65 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.”

6.66 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.

6.67 In this respect, the High Court has recently issued a decision (*Leeds City Council v SoS & Taylor Wimpey*, 13 March 2019), concerning a challenge made by the Council against an Inspector’s decision to allow an appeal for the development of a site for 55 houses. The stage of an emerging plan, and arguments as to prematurity, were live issues and therefore regard must be had to the conclusions drawn in that case. In terms of whether or not the plan in that case was at an advanced stage for the purposes of applying the necessary policies of the Framework, the judge found no criticism of the Inspector’s discussion in his decision, which stated as follows:

“... I understand Guidance to mean that the emerging plan should be sufficiently advanced to be not yet formally part of the Development Plan, i.e. that the examining Inspector’s Main Modifications have been published, so that it is reasonably clear what final form the plan would take, even though it has not been finalised or formally adopted”.

6.68 The same case also provides guidance on the application of paragraph 50 of the NPPF. The judge there equates the test “seldom justified... [unless] the LPA indicate[s] clearly how granting permission would prejudice the outcome of the plan-making process” to a “tilted balance” exercise as follows:

“As I have noted, that guidance advises, in paraphrase, that a prematurity argument would be unlikely to succeed, unless applying a test in language similar to the “tilted balance” comes down on the side of “adverse impacts” demonstrably outweighing the benefits; which would be probably so only where the development is substantial enough to undermine future plan making and the emerging plan is at an advanced stage.”

- 6.69 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.
- 6.70 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 and that the plan is not sufficiently advanced to rely upon in these respects.
- 6.71 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.
- 6.72 These conclusions relate only to the consideration of the policies contained within the draft local plan in respect of the Green Belt extension and highway related matters. All other matters of assessed impact are addressed throughout this report in the usual way within the context of the adopted development plan and national policy as required.
- 6.73 Notwithstanding this, weight to be afforded to the relevant emerging policies as set out above remains a matter for the decision maker to take into account. Therefore although it is not possible to mount a reasonable justifiable ground of refusal based on prematurity, it is not to say that (albeit limited) weight should not be afforded to the policies contained within the draft plan given the intention to include the land within the Green Belt. In the event that an appeal is lodged against refusal of planning permission, this is a matter the inspector will have due regard to, based on the particular timing of the appeal relative to the examination of the local plan. This is a fluid issue at present and in the event that the stage of the local plan preparation has sufficiently moved on by the time any such appeal takes place, the Council would of course provide the determining inspector with the necessary information to assist the decision making process in this regard.

Planning obligations

- 6.74 The NPPF requires the Council to consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. It states that planning obligations should only be sought where they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. Similarly paragraph 55 states that planning conditions should

only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

6.75 Regulation 122 of the CIL Regulations also sets out 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.

6.76 Policy CP17 of the TMBCS states that in urban areas affordable housing provision will be sought on all sites of 15 dwellings or above at a level of 40% of the number of dwellings within that scheme (70%, affordable rent, 30% shared ownership). Only in exceptional circumstances should off-site provision be secured or a commuted sum provided in lieu of on-site provision. In this respect, the submission indicates that a policy compliant level of affordable housing would be provided for across each of the sites although the precise details of that provision has not been set out at this stage. Had the proposals been acceptable in all other respects, this would have been the subject of detailed negotiations between the parties to ensure local need was being appropriately met on this sites culminating in an agreed legal agreement to secure the necessary provision in the event that outline planning permission was granted.

6.77 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 level of on-site provision across the three sites. This, along with any necessary off-site contributions could suitably be secured by legal agreement in the event that the developments were deemed to be acceptable in planning terms.

6.78 Local planning authorities should work with other authorities and providers to assess the quality and capacity of infrastructure for transport, water supply, wastewater and its treatment, energy (including heat), telecommunications, utilities, waste, health, social care, education, flood risk and coastal change management, and its ability to meet forecast demands.

6.79 The representations received from various providers in connection with these applications have been reproduced at Section 5 of this report and in all instances mitigation required could be appropriately secured via legal agreement had the development proposals been acceptable in all other respects.

6.80 However, the significant harms identified as arising through the proposed development within the preceding assessment cannot be suitably overcome in a manner that would meet the requisite tests, for the reasons set out in the detailed assessment.

Planning balance and overall conclusions:

- 6.81 The proposed development would provide 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 help to address a recognised need for affordable housing in the Borough. Additionally, an element of self-build would be provided. In accordance with the Framework, I consider that these should be given significant weight in the overall balance.
- 6.82 In addition, a number of economic benefits of the scheme have been put forward by the applicant including through construction expenditure, local employment and household expenditure by future residents in the local area.
- 6.83 However, the development would result in significant harm to the pattern of development and character of the area due to the scale, density and form of the development in what is a characteristically rural environment, contrary to the requirements of adopted development plan policy and the policies contained within the NPPF.
- 6.84 Furthermore, the scheme would introduce residential development onto a site that is unsustainable when applying the three objectives of the Framework and this would cause intrinsic harm when viewed against those objectives.
- 6.85 In addition to the various substantial harms arising, some (albeit limited) weight must also be given to the policies contained within the emerging local plan.
- 6.86 These various substantial adverse impacts would not be outweighed by the acknowledged benefits of granting planning permission for this development.
- 6.87 Whilst it is recognised that the Council does not have a 5 year housing land supply at this time, it certainly does not follow under national policy that *ad hoc* and ill-conceived residential development of this nature, especially that which has ostensibly not been well-considered or planned for and that demonstrably would cause unacceptable levels of harm should be approved. It is clear that in all instances the presumption in favour of sustainable development as set out in paragraph 11 (d) (ii) must be applied but the assessment that has taken place leads me to conclude that there would be significant and demonstrable adverse impacts arising in the event that planning permission were to be granted in each case that would not be outweighed by the identified benefits.
- 6.88 I therefore recommend accordingly.

7. Recommendation:

7.1 Refuse outline planning permission for the following reasons:

- 1 The proposed development by virtue of the overall number of units proposed, the resultant density, form, pattern and character that would subsequently arise would

be entirely at odds with the prevailing character of the environment, which is rural in character and appearance. As such, the development would be harmful to visual amenity and demonstrably would not respect the site and its surroundings, protect, conserve or enhance local distinctiveness, be sympathetic to local character and history, or take any opportunities for improving the character and quality of the area and the way it functions. The development proposed is therefore contrary to the requirements of 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 paragraphs 127(c) and 130 of the National Planning Policy Framework (2019).

- 2 The proposed development by virtue of its specific nature and the locational characteristics of the site does not contribute to the objectives of sustainable development. The site would be separated from local amenities, facilities and public transport routes and the proposed development makes no provision to provide acceptable or safe connections between the site and such facilities in a way that would offer future residents a genuine choice of sustainable transport options. The development therefore fails to meet the objectives of sustainable development as set out by paragraph 8 and the requirements of paragraph 102 and 103 of the National Planning Policy Framework (2019).

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