
Report from 9 July 2020

**East Malling And
Larkfield**
East Malling**1 August 2019****TM/19/01814/OA**

Proposal: Outline Application: Erection of up to 250 new homes (40% affordable), new community building, areas of public open spaces, areas of play, upgrade of existing footpaths, together with new vehicular access onto London Road and associated parking and landscaping

Location: Development Site Land West Of Winterfield Lane East Malling West Malling Kent

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1. Description:

1.1 Outline planning permission, with all matters reserved for future consideration except for access, is sought for the following development:

- Provision of up to 250 new homes in a mix of housing ranging from 1 bedroom apartments to 4 bedroom houses;
- Provision of new affordable homes (40%) in a mix of rented and shared ownership;
- Provision of a new community building;
- The provision of approximately 11ha of open space, including a number of equipped play areas;
- Enhancements to the existing public rights of way that cross the site;
- New vehicular access point from the south side of A20 London Road. Access would be 7.5m wide and feature footways/cycleways to both sides and the provision for this to continue across the site frontage on the south side of the A20 London Road.
- Improvements to the London Road/Lucks Hill/Winterfield Lane junction to improve capacity;
- Landscaping enhancements and wildlife and habitat improvements.

1.2 As it is the only matter not reserved for future consideration, full details of the vehicular access have been provided for determination at this stage. The access is to be from the south side of the A20 London Road, measuring 7.5m wide with 3m wide footways/cycleways tied in. Visibility splays have been shown which will require existing vegetation to be cutback/modified. The existing lanes on the A20

London Road will be altered to create a right turn lane into the site with the road widened to the south to facilitate this.

- 1.3 The application has been amended from the original submission with the deletion of the proposed second access point and through route from Lucks Hill/Winterfield Lane. The sole vehicular access will therefore be from the A20 London Road. A pedestrian and cycleway access is indicated from Winterfield Lane/Lucks Hill which will also function as an emergency access point if ever required. It is on this basis that the application has been assessed and the recommendations made.
- 1.4 The submitted indicative layout plan shows the development being proposed each side of footpath MP119 with development set away from the A20 London Road by landscaping and open space with areas of open space to the east and western ends of the site. Landscaped corridors are indicated as being provided along the routes of the existing footways which would be enhanced as part of the works.
- 1.5 The application was intended to be reported to the Area 3 Planning Committee on 19 March. However, Members will be aware it was necessary to cancel that meeting. Since that time, officers have continued to work up the detail of the planning obligations to be contained within the legal agreement in particular, the contents of which are discussed where necessary in the assessment that follows.

2. Reason for reporting to Committee:

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

3. The Site:

- 3.1 The site has a total site area of 18.17 hectares and is located to the south of London Road, East Malling. The site falls outside of but is immediately adjacent to the defined settlement boundaries of Leybourne, Larkfield and East Malling which are in close proximity to the boundary of the site.
- 3.2 The site's south-eastern boundary is adjacent to the Clare House Conservation Area. The A228 dual carriageway and Lucks Hill road together with the existing farm and outbuildings form the site's southern boundary.
- 3.3 The site currently comprises two large fields used for arable farming with a gently sloping topography with a high point in the south-east corner, and low points along the northern and western boundaries. Whilst the site is within the countryside it is not subject to any specific landscape designations. The site is not within a Conservation Area nor does it contain any listed buildings. The site is within Flood Zone 1 where there is a low risk of flooding. There are two existing public rights of way that cross the site (MR119 and MR120), the latter of which provides a connection between Leybourne and West Malling Railway Station.

- 3.4 To the north of the site the area is characterised by predominantly two storey dwellings in a mix of detached and semi-detached building styles. To the north-east of the site is an existing contractor's yard with access onto Winterfield Lane. To the east side of Winterfield Lane is the Winterfield area of East Malling.
- 3.5 There is significant boundary vegetation, including well-established native trees and hedgerows, to the northern, eastern and western boundaries, as well as through the site, providing a good level of visual enclosure from the settlement edge. Existing tree groups, some of which are covered by TPO's, in the southern part of the site filter views across the site and strong boundary hedgerows along the southern boundary with Lucks Hill filter views onto the site from the south.

4. Planning History (relevant):

TM/19/01181/EAS screening opinion EIA 12 June 2019
C not required
Request for a Screening Opinion in accordance with Regulation 6 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017: Development for residential to provide a total of up to 275 new dwellings, of which 40% would be affordable

5. Consultees:

DPHEH: In the interests of completeness, and for ease of information, full representations received from East Malling and Larkfield Parish Council, West Malling Parish Council and Leybourne Parish Council, Highways England, KCC (H+T), the Environment Agency, KCC (LLFA), KCC (Economic Development) are reproduced in full in annexes 1,2,3,4,5,6,7 and 8 respectively. As such, these are not summarised within the report itself. All other representations received are summarised below as follows:

- 5.1 KCC (PROW): The proposals to MR119 and MR120 are encouraging and fall in line with what we would have suggested. These are already very well used routes and the application would only increase their usage.
- 5.1.1 There appear to be multiple locations where the roads are proposed to be built across the PROWS. At these locations I would like to see a pedestrian crossing to protect the safety of pedestrians and ensuring they continue to have priority
- 5.1.2 Whilst I am happy to see a 3m wide verge between the proposed roads and the PROWs, I have concerns about the trees being planted between them and how the roots may affect the surface of the path. I think it would be beneficial if the trees have some sort of root protection to prevent the roots from damaging or being damaged by tarmac from the path or road.

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- 5.1.3 Should the application go ahead and given that the paths are so well used, I feel it is crucial that whilst any building work is ongoing a suitable alternative route is provided for all the paths.
- 5.2 KCC (Heritage): The site lies in an area of potential associated with Iron Age and Roman activity although there is general multi-period potential for this site too. There are known Iron Age remains from along the A228 to the west and further Iron Age industrial remains recorded to the south west. The A20 is considered to possibly be a Roman road and there are indications of Roman settlement and a cemetery to the east towards Larkfield. Extensive archaeological remains may survive on this site and I therefore recommend a condition to secure and implement archaeological investigations to take place.
- 5.3 Southern Water: No objections subject to appropriate foul and surface water measures.
- 5.4 West Kent CCG: No objections subject to contribution of £210,600 towards the refurbishment, reconfiguration and/or extension at Thornhills Medical Practice; West Malling Group Practice and/or Wateringbury Surgery.
- 5.5 CPRE Kent: The proposed site is high quality agricultural land that has been farmed locally for generations.
- 5.5.1 Forty Acre Fields provides important agricultural separation for historic communities that have suffered development pressures to coalesce on all sides. Indeed the Fields provide one of the last bastions against the merging of the urban areas of Leybourne, Larkfield and East Malling, being the Parish in which the land is located. If developed it would further erode the space between those communities and the historic approach to West Malling via the Abbey. Forty Acres Fields is the most important gap left between the total urbanisation of those rural communities east of the A228.
- 5.5.2 The fields are criss-crossed by two well-used PROWS, MP119 & 120. Currently there is a very pleasant walk, once the A20 is crossed, along MP119 running through the fields to West Malling station. These proposals will maintain the footpaths by 'upgrading' the surface to hard standing, thus urbanising the approach to the station and degrading the setting of the PROWS by significant additional housing.
- 5.5.3 The area is to become Green Belt in the emerging Local Plan, in recognition of the importance of the gap that these fields provide. CPRE asks all relevant decision makers, LPA Officer or Planning Inspector, to give weight to this emerging policy.
- 5.5.4 It is noted that Kent Highways have now withdrawn their objection to the proposal in the light of proposed contributions to junction improvements. However, given that the emerging Local Plan is providing sufficient housing in other parts of the borough and these far more significant developments will have unpredictable

highway impacts on the primary road network, then additional and unneeded housing will cause additional stress to an already fractious road network that is prone to capacity queuing at many junctions in the area.

5.5.5 CPRE, Tonbridge and Malling District, therefore strongly object to this proposal for the above listed reasoning.

5.6 Natural England: No comments subject to standing advice.

5.7 British Horse Society: I note with interest the intention to “upgrade” the footpath within the development site “pending discussions with PROW Officer” and ask that these upgrades are made to bridleways (or ideally restricted byways) which would automatically include pedestrians and cyclists but would also allow equestrians access to the same provision. It would be useful for equestrians to be permitted to use the emergency route on to Winterfield Lane along with cyclists and pedestrians.

5.7.1 There is an ideal opportunity with this development to provide a ‘behind the hedge’ equestrian route linking footpath MR120 at its eastern end connection with Winterfield Lane to footpath MR119 at its northern end connection with London Road and/or a connection to the western side of the development providing a circular route from the southern end of MR119 at its junction with Lucks Hill to its northern end at the A20. To provide both of these would produce a walking (running), cycling and equestrian loop of approximately 2km which would be a fantastic asset for both the residents of the development and other local users.

5.7.2 If these provisions are made, it will go some way towards mitigating the inevitable additional traffic which would make use of the quieter “rural” lanes surrounding the site. The current situation (before any housing provided as part of the new Local Plan, or this application, is built) is that these local rural lanes are used regularly as “rat runs” when traffic spills off the M20 at Wrotham due to congestion, onto the A20 and then on to surrounding lanes such as Sandy Lane, Norman Lane, Lucks Hill and Winterfield Lane to avoid sitting in queues on the A20. Providing some respite from this traffic would be of benefit to the equestrians in the immediate area (East Malling, West Malling, Leybourne and Ryarsh) who number in their hundreds if not thousands.

5.7.3 Finally, a range of evidence indicates that the vast majority (90 percent plus) of horse riders are female and more than a third (37 percent) of the female riders [who took part in a survey] are above 45 years of age. Horse riding is especially well placed to play a valuable role in initiatives to encourage increased physical activity amongst women of all ages. As a popular sport in the borough therefore, providing these opportunities for equestrianism is to provide a significant benefit to the health and wellbeing of a sector of the local community who would otherwise be sedentary.

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- 5.7.4 The BHS would be very willing to work with the Council and the applicant in making this provision.
- 5.8 Kent Fire and Rescue: Means of access are considered satisfactory.
- 5.9 Kent Police: Note that the pedestrian access path to Winterfield Lane will be protected by a removable bollard. Whilst the proposed bollard may deter/prevent vehicle misuse, legitimate cyclists and potentially motorcyclists using the route unofficially, may be at risk if existing the cycleway at any speed. With this in mind, we recommend that serious consideration be given to replacing the bollard with a radial kissing gate (or similar), which should be designed to allow authorised access for pedestrians, disability scooters/buggies and cyclists. A secured wide vehicle gate or gates should be installed to the side of the kissing gate, for emergency vehicle access. This gate(s) should be wide enough for a fire appliance (3.7m).
- 5.9.1 As an observation, the pull off area between the lane and the proposed bollard location may also attract fly tipping as fly tipped material is often evident in gateways and passing points around this location.
- 5.9.2 Applicants should work with local Designing out Crime Officers to address Crime Prevention through Environmental Design and ensuring Secured by Design security requirements at the detailed application phase.
- 5.10 East Malling Conservation Group: The group strongly object to this outline application for the following reasons:
- 5.10.1 The previous Local Plan, (or current), advises that these fields are specified as agricultural land; the new Local Plan (currently with the Inspectorate for approval), proposes that these field should remain as Green Field. This change recognises the importance of this land as part of the strategic gap between East and West Malling.
- 5.10.2 The proposal includes a road from London Road, through the development to Winterfield Lane, close to its junction with Chapman Way. This will create a “rat run” from the London Road to West Malling Station and also through the village of East Malling for destinations to the south (e.g. Tunbridge Wells and the transport terminals in Paddock Wood). This would not benefit West Malling, East Malling or the proposed new development in any way for the following reasons:-
1. This new road would encourage traffic to travel from London Road, along Chapman Way. This road has an entrance to a Primary Academy, a Community Centre and two nurseries. It is also well used by students from the local Secondary School. It already has speed humps and a school crossing patrol. Any increase in traffic would be detrimental.

2. Traffic could also travel south along Winterfield Lane to Couch Green then along Clare Lane where there are no pedestrian footways. Traffic could continue to Mill Street, (which also has limited pedestrian footways) and on in a southern direction towards Tunbridge Wells. This traffic would turn right along the High Street, Chapel Street and beyond. These narrow village streets already have traffic gridlock issues several times a day.

3. The road would also encourage through traffic into the new development endangering children.

4. If two entrances were required to service 250 houses then we would suggest that they both exit London Road thus removing the potential for through traffic from the new development and also the ancient village of East Malling.

5. Over the years we have been successful in stopping any vehicular link from Kings Hill and East Malling, this recognises similar “rat run” issues as detailed above.

6. This application would have an adverse impact on the setting and views in and out of a rural footpath. Many of our members have used the footpaths that cross the site for over twenty plus years and have enjoyed walking through the fields at various times of the year, enjoying the various birds and other wildlife along the way. To replace the traditional rural footpath with a footway through a housing development with hard landscaping and street lighting would completely ruin the enjoyment of our countryside.

Taking the above into consideration we request that the outline application is refused.

5.11 Private Reps: 65 + site + press notice/2X/299R/35S.

Objections are summarised as follows:

- Development contrary to both existing and proposed local plans
- Too much development already in the area.
- Roads continually congested
- Access is in a dangerous location
- Will exacerbate problems of pulling out of Pinewood Close opposite
- Infrastructure cannot cope with existing population let alone hundreds more people.
- Not in accordance with the emerging local plan

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- Local plan will provide 5 year housing land supply
 - Land is supposed to be Green Belt
 - Loss of agricultural land
 - Destroy open field
 - Should not build on greenfield sites when brownfield land such as Aylesford Newsprint are empty.
 - Impact on local wildlife
 - Increase in pollution
 - Open spaces will be ripe for Traveller incursions
 - Only people who want this development are greedy developers, landowners and public servants
 - Existing developments such as Holborough and Ashlyn Quarter not selling
 - Fundamentally alter the character of rural footpaths
 - Kent no longer the Garden of England
 - Council should stand by the Local Plan submission
 - Lead to urbanisation of a currently rural landscape.
 - Lead to coalescence between East Malling, Leybourne, Larkfield, Kings Hill and West Malling.
 - Lead to 'rat running' in the local roads
 - Lack of public transport
 - The public do not want more development
 - Loss of trees and hedgerows
 - Impact on air quality
 - Too much pressure for development in the north of the borough
 - Areas that need regeneration and empty homes should be brought back into use before agricultural land proposed to be green belt should be developed
 - Houses are not selling in the area so no need to build more

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- Type of houses proposed will not benefit those who need them most – young couples/families and single people
 - Improvement plans to the A20 are only that – widening and improvements not approved yet
 - Link road not viable
 - Parks and community buildings are just ways for developers to sweeten developments
 - Lead to increase in crime with isolated parks and 40% affordable housing
 - Affordable housing will not be 'affordable'
 - Do not need manufactured open space but need to retain the countryside
 - Footpaths do not need improving and should be left as rural paths
 - Area needs a doctors not a country park
 - No need for further community buildings
 - Loss of a site for ground nesting birds
 - Do not want to become part of one big Maidstone
 - Communities will no longer be self-sufficient as settlements outgrow their facilities
 - Remove the last green wedge in the area
 - Fields are the lungs of Larkfield and Leybourne
 - No need for affordable housing as population increase is only being supported by immigration
 - Not enough parking proposed for the community building
 - Not enough cycle paths proposed
 - Other developments have been refused due to air pollution
 - Site was a waste tip in Victorian times
 - Future generations should be able to enjoy this earth and younger generations should not have to live with the consequences of short sighted decisions

- Coronavirus lockdown has made such open spaces more valuable and to build on them would be vandalism.
- Site adjoins land that forms part of the heritage area of Clare Park

Comments in support are summarised as follows:

- Area needs affordable housing
- Development appears to be well planned with considerable open space
- Shortage of housing in West Malling and Larkfield
- The proposed occupant of the Community Building, Larkfield Community Church, are well respected in the community for the support they provide and would be an enhancement to the locality
- Church also supports numerous local groups from Guides to over 60s friendship groups
- Beneficial to have the managed open space for recreation
- Enhance footpath links to West Malling Station
- Bring road improvements for the wider community
- Plan shows consideration for residents by giving them space
- Type of development will help young onto the housing ladder

6. Determining Issues:

Principle 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 Policies CP6, CP11 and CP14 are the most important to the determination of this application as they address matters of principle for development of this nature. However, it has been established through various recent appeal decisions that in the absence of a 5 year housing land supply they are out of date and the weight to be afforded to them is substantially diminished.
- 6.4 With regard to the application of the presumption in favour of sustainable development, regard must first be had to 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, none of the policies referred to in Footnote 6 of the NPPF apply to the site the subject of this application. As such, pursuant to paragraph 11(d) (ii) of the NPPF, permission should be granted unless the 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:

- 6.5 Paragraph 79 of the NPPF states that “planning policies and decisions should avoid the development of isolated homes in the countryside”. Whilst the site is located within the designated countryside, it is located immediately adjacent to defined urban areas and cannot be reasonably said to be isolated in any way. The development would therefore meet the requirements of paragraph 79 of the NPPF.
- 6.6 The NPPF states at paragraph 7 that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 of the NPPF states that the planning system has three overarching objectives to achieving sustainable development, these being an economic objective, such as ensuring adequate land is available to support growth and enable the provision of infrastructure; a social objective, such as ensuring a sufficient number and range of homes can be provided to meet the needs of present and future generations as well as accessible services and open spaces; and an environmental objective,

ensuring that effective use is made of land, helping to improve biodiversity and protecting and enhancing the natural, built and historic environment.

- 6.7 It is considered that the location of the site and the type of development proposed would be considered sustainable development under paragraph 8 of the NPPF and this is set out in greater detail throughout this report as necessary.

Character and pattern of development and impact upon visual amenities:

- 6.8 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.

- 6.9 In particular, paragraph 127 seeks to ensure that development:-

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.

- 6.10 Furthermore, paragraph 130 states 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).

- 6.11 The application is supported by a detailed Landscape and Visual Impact Assessment (LVIA) that has studied the two separate aspects which are required to be considered when assessing the landscape and visual effects of a development. These are:
- Assessment of landscape effects – assessing the effects on the landscape as resource in its own right, and
 - Assessment of visual effects: assessing the effects on specific views and on the general visual amenity experienced by people.
- 6.12 With regard to Landscape effects such matters as landscape designations, the landscape quality, scenic quality, rarity, recreational value and perceptual aspects and associations should be considered.
- 6.13 The site is not the subject of any specific landscape designation. The quality is typical of other open land in the wider locality; open, gently undulating agricultural land which is enclosed by the urban areas of Leybourne, Larkfield and East Malling to the north and east and to the south west by the A228 West Malling Bypass. The site is of limited scenic quality and its most notable features are the hedgerows and trees that stand along the boundaries of the site and a number of mature trees dotted within the site, two groups of which are covered by TPOs. Consequently, the landscape of the site is not considered to be rare or contain rare features or characteristics.
- 6.14 There is no doubt that the proposed development would, by virtue of the fact that it is built development, alter the landscape and appearance of the site. The development would not though be considered to be harmful to the character and appearance of the wider area by virtue of the fact that it would be viewed as an addition to the existing urban area, and thus would be seen within this context and against a backdrop of long established and significant urban development.
- 6.15 The indicative site layout proposes the retention of the most significant features of the site (the existing boundary hedgerows and trees) with 11ha of open space designed into the development including green ways along the existing footpaths and areas of open space to the south west, east and north east. This will enhance the public access through the site as a whole. The existing boundary planting is to be supplemented with additional planting that can be secured by a landscaping condition. Given the desire to retain and enhance the existing planting it is

considered adequate to protect these features with a planning condition rather than with specific TPOs on additional trees that are not already covered.

- 6.16 The site is visible to those residential properties that have a view across the site on the north side of London Road. They will experience the greatest change in the landscape of the site as housing will be located to the south in a previously open area. However, as the majority of the existing vegetation is to be retained and also enhanced, it is considered that the overall impact of the development would be reduced lowering the overall impact on the landscape. Furthermore, Members will be aware that there are no private rights to a view in planning terms and therefore the fact that existing residents will see the new development is not, in and of itself, a material planning consideration.
- 6.17 Similarly existing residents living to the east of the site would not be adversely impacted by the proposed development as they would be separated from the development by the existing vegetation on the boundary and also the vegetation on the east side of Winterfield Lane. The indicative layout also shows the built envelope is to be set back from the eastern frontage of the site behind mature boundary screening. Any impact upon their perception of the landscape is likely to be minor.
- 6.18 Views into the site from the local highway network and footpaths around the site would be limited and filtered by the existing boundary treatments which are to be supplemented under the proposed development.
- 6.19 Views from the footpaths crossing the site would change the greatest; however to mitigate this impact the distance between the new homes either side of footpath MR120 would be approximately 25m. The distance between homes to either side MR119 which connects into the A20 London Road would be approximately 30m to allow long views through the site towards the open recreational area.
- 6.20 The site adjoins the Clare Park and Blacklands CA to the south-east but is separated by Winterfield Lane. This separation and also the form of the existing landscape in the area however means that the proposed development would not have an adverse impact on the character and setting of the CA. Similarly there are no designated or non-designated heritage assets in the vicinity that would have their setting adversely affected by the proposal, either by virtue of distance or the nature of the existing topography.
- 6.21 Paragraph 122 of the NPPF 2019 requires that planning policies and decisions should support development that makes efficient use of land, taking into account:
- a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;
 - b) local market conditions and viability;

- c) the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;
- d) the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and
- e) the importance of securing well-designed, attractive and healthy places.

- 6.22 Policy CP24 of the TMBCS 2007, which is set out at paragraph 6.8 of this report, accords with this paragraph, requiring development to respect the site and its surroundings through its scale, density, and character. Although much of the detail is reserved for future consideration, the indicative plans provided show that the proposed quantum of development on the site, within the parameters provided at this stage, would allow the development to come forward in a manner that would be broadly commensurate with the prevailing local character whilst still seeking to make use of the land available.
- 6.23 The new access and associated visibility splay would lead to changes to the A20 London Road frontage as a result of the removal of some of the existing vegetation but I do not consider the visual impact of this to be significant, in the context of the development as a whole.
- 6.24 Similarly, the indicative layout proposes a scheme that, due to the layout of the proposed development, would not have an adverse impact on the residential amenity of existing and proposed residents. 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.
- 6.25 In all these respects, I consider that the development would come forward in an acceptable manner that would accord with Policy CP24 of the TMBCS, Policy SQ1 of the MDE DPD and paragraphs 122, 127 and 130 of the NPPF.

Highway safety, capacity and parking provision:

- 6.26 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.
- 6.27 It goes on to state that 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.

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- 6.28 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.
- 6.29 Development proposals should comply with parking standards which will be set out in a Supplementary Planning Document.
- 6.30 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 A single vehicular access point is to be created to serve the development as a whole. This is to be from the south side of the A20 London Road approximately

160m to the west of the A20/Lunsford Lane junction and approximately 40m west of Pinewood Close. A secondary pedestrian and cycle access that would also serve as an emergency access is to be provided from Winterfield Lane/Lucks Hill. Details of the access with associated footpaths and splays have been provided on the submitted drawings and are as described in Section 1 of this report. A Transport Assessment has also been submitted.

- 6.34 Members will note from the various appendices that the Local Highway Authority (KCC H&T) and Highways England (responding in connection with potential impacts on the strategic network) do not raise objections to the scheme on the basis of the submitted modelling, which includes the results of the VISUM modelling undertaken in support of the emerging development strategy up to 2031. The modelling submitted with the application covered junctions from junction 4 of the M20 in the west to the A20/New Hythe Lane junction in the east and assessed the development against a number of scenarios. The resultant findings indicate that the development has the potential to lead to capacity issues, when taking into account all other committed development and draft local plan allocations, at the A20/Lunsford Lane/Winterfield Lane junction, the A20 London Road/Castle Way junction, A20/New Road junction and A20/New Hythe Lane junction. All other junctions would remain within capacity.
- 6.35 The highways impact of the development is proposed to be mitigated by a developer led scheme at the A20/Lunsford Lane/Winterfield Lane junction which consists of localised widening to increase capacity to an acceptable level. This widening would be to the southern side of the A20 to increase the westbound capacity at the Lunsford Lane/Winterfield Lane junction. This scheme is considered acceptable by KCC Highways and would be delivered through a S278 agreement prior to occupation and to ensure delivery would also be a requirement of the S106 legal agreement.
- 6.36 The proposed new access onto the site itself from the A20 would, as well as providing a means of access to the development, provide improvements to footways, cycleways and public rights of way through and fronting the site and also pedestrian refuges on the A20. The proposed site access junction has been included in all undertaken highway modelling work and is indicated as working well within capacity levels when assessed with all other committed and draft local plan developments.
- 6.37 The developer will make a contribution of £1547.62 per dwelling towards further highway improvements to enhance junction capacity along the A20 corridor from the A228 and Coldharbour roundabout. These contributions would be used towards KCC scoped and costed planned improvements at the A20 London Road/Castle Way junction, A20/New Road junction and A20/New Hythe Lane junctions. The developer will also make a contribution of £910 per dwelling towards bus service enhancements between the development and Maidstone Town Centre and West Malling Station to encourage sustainable transport,

ensuring that future residents of the development will have the ability to make use of alternative transport methods other than the private motor car. These obligations are all to come forward as part of a package to be contained within the section 106 legal agreement, the final drafting of which is to be completed between the parties.

- 6.38 Furthermore, a condition should 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 (KHS IGN3). The condition would also ensure an appropriate level of parking for the proposed community building.
- 6.39 In light of the above and taking into account the comprehensive range of infrastructure improvements to be undertaken either by the developer or the local Highway Authority (with the necessary contributions from the developer) 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.

Ecology and biodiversity:

- 6.40 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.
- 6.41 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.
- 6.42 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.
- 6.43 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.
- 6.44 An Ecological Appraisal report has been submitted in support of the application. The report sets out that the site comprises an area of arable farmland surrounded

by roads to all sides and with residential development to the north and east. To the south and west lies farmland, pastoral land and parkland supporting mature hedgerows and small woodland areas. For these reasons, overall the site is considered to be of negligible intrinsic value in terms of wildlife supporting habitat.

- 6.45 Notwithstanding this, the appraisal goes on to acknowledge that the site supports an assemblage of foraging and commuting bats that is of importance at the county level, assemblages of birds and invertebrates that are of value at the site level. A single slow-worm was recorded during the targeted surveys, indicating a low population of slow-worm is present at the site that is of importance at the site level. Ground nesting birds are also present on the site.
- 6.46 It is noted that Natural England has not provided any substantive representations in response to our consultation but has directed us to their Standing Advice, which is common practice for sites of this nature. The standing advice does not specifically restrict development but sets out the procedure applicants should follow before and during a development. The standing advice has been followed in the submitted Ecological Appraisal which sets out appropriate mitigation measures. These can be controlled through planning condition.
- 6.47 Very minor residual, and therefore potentially cumulative, adverse effects remain in relation to ground nesting birds; however, mitigation measures will be put in place to avoid harm to nesting birds during the construction phase. The landscaping proposals, including approximately 11 hectares of open greenspace, will provide a net gain in resources for the majority of other ecological features and enhance ecological permeability across the site. The proposed management of the land will enable such measures to be put in place.
- 6.48 I am therefore satisfied that the development would have a net positive effect on habitats and biodiversity on the site through the provision of enhanced landscaping proposals which would be an overt benefit arising from the development. As such it is considered that the proposals will accord with all relevant national and local planning policy in relation to ecology including Policies NE1-NE4 of the TMBC Local Development Framework Core Strategy and the NPPF.
- 6.49 These matters can all be reasonably secured by planning condition.

Best and most versatile land:

- 6.50 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.

This is reflected by paragraph 170 (b) of the NPPF which sets out that planning policies and decisions should contribute to and enhance the natural and local environment by b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.

6.51 I am mindful that Policy CP9 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. When read against paragraph 170 (b) of the NPPF though there is a balance to be made when considering individual sites. It is clear from the preceding sections of this report that there is a clear need for additional housing within the Borough, and the development would make a contribution to redressing the existing shortfall.

6.52 The majority of the site is classified as grade 2, which is typical of the agricultural land in the wider area. The site is contained on three sides by roads and, whilst it is recognised that best and most versatile agricultural land does have some economic benefits alongside its primary purpose of food production, it is considered that the loss of this comparatively small pocket of agricultural land would have little tangible impact on agricultural yield or profitability in broader terms. This judgement is supported by the view of the Inspector in the recent Lavenders Road appeal decision, which Members will be aware of, where the Inspector concluded that the loss of best and most versatile land in that instance was not an overriding factor supporting the dismissal of the appeal in light of the Council's five year housing land supply, which since that decision was made has further reduced. It is therefore considered that whilst the development would result in the loss of actively farmed agricultural land the overriding need for housing outweighs its retention for agricultural purposes when viewed against both Policy CP9 of the TMBCS and also paragraph 170 of the NPPF.

Potential land contamination:

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 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 Desk Study and Preliminary Risk Assessment is considered to adequately review the history and environmental setting of the site. It notes that the site has not been previously developed and the risk of contamination is low. It concludes by setting out the scope of works recommended for the intrusive investigation to be carried out. These are considered satisfactory and conditions are proposed requiring appropriate site investigation and (where necessary) appropriate remediation measures to take place. These conclusions have been agreed by the Council's Environmental Protection officer and accordingly a number of conditions have therefore been recommended to be imposed on any permission granted.

Flooding and surface water management:

6.56 Policy CP10 states that:

1. 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.

2. Development which is acceptable (in terms of PPS25) or otherwise exceptionally justified within areas at risk of flooding must:

(a) be subject to a flood risk assessment; and

(b) include an appropriately safe means of escape above flood levels anticipated during the lifetime of the development; and

(c) be designed and controlled to mitigate the effects of flooding on the site and the potential impact of the development on flooding elsewhere in the floodplain.

6.57 Paragraph 163 of the NPPF states that "When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
- b) the development is appropriately flood resistant and resilient;
- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- d) any residual risk can be safely managed; and
- e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

6.58 The site is entirely within Flood Zone 1 and so has a less than 1 in 1000 annual probability of flooding. The underlying ground conditions of the predominantly sands and gravels of the Folkestone Formation lend themselves to drainage systems using infiltration of surface water runoff into the ground. This is considered to be acceptable in this area. A detailed sustainable surface water drainage scheme has therefore been recommended and conditions have been advised which are entirely appropriate, as confirmed by KCC as the LLFA.

6.59 Similarly, Southern Water have raised no objections to the proposed development. I am therefore satisfied that, with the suggested conditions, the development would accord with paragraph 178 of the NPPF.

Noise:

6.60 Policy SQ6 of the MDE DPD relating to noise has been judged to be out of date since the original publication of the NPPF in 2012. As such, for decision making purposes it is necessary to rely on the contents of the NPPF in this respect. 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 in support of the application. The report details the measurement of the noise climate present at the site, compares this with appropriate standards and sets out the attenuation measures that could be implemented to secure an acceptable environment. The indicative site layout plan shows that the proposed quantum of development could be laid out in a manner that would ensure the nearest properties would be significantly set away from the adjacent roads. The separation distances are such that even when assessed against 2031 traffic levels it is considered that, subject to appropriate glazing and trickle ventilators to mitigate any noise impact to dwellings, the development would experience a satisfactory noise climate. A condition can be imposed to suitably

secure these requirements. The proposal therefore accords with paragraph 180 of the NPPF.

Air quality:

6.62 Policy SQ4 of the MDE DPD relates to air quality. This policy states that development will only be permitted where all of the following criteria are met:

(a) the proposed use does not result in a significant deterioration of the air quality of the area, either individually or cumulatively with other proposals or existing uses in the vicinity;

(b) proposals would not result in the circumstances that would lead to the creation of a new Air Quality Management Area;

(c) proximity to existing potentially air polluting uses will not have a harmful effect on the proposed use; and

(d) there is no impact on the air quality of internationally, nationally and locally designated sites of nature conservation interest or appropriate mitigation is proposed to alleviate any such impact.

6.63 This policy is broadly in compliance with the guidance set out in the NPPF. 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.

6.64 An AQMA lies along the A20 corridor 600m to the east of the application site. The application is supported by an Air Quality Assessment that concludes that the development would not have an adverse impact on air quality in the existing AQMA nor result in additional areas being designated. I understand that the AQMA in this area has recently been reviewed and can be reduced on its easterly extent; however it is not considered that this proposed development would result in the area having to be extended again in the future. Subject to an appropriate construction management plan, which can be secured by a condition, 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:

- 6.65 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.
- 6.66 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.
- 6.67 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.”
- 6.68 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.
- 6.69 In relation to these paragraphs, 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 proposed Green Belt extension (Policy LP11) has not been tested at examination. Furthermore, at this time there remain unresolved objections to the proposed Green Belt extension which have yet to be resolved through the local plan process.
- 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.
- 6.71 Notwithstanding this position, Members can note that 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 in the vicinity within local plan arising from this scheme coming forward at this time.

Planning Obligations:

6.72 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

6.73 Paragraph 56 of the NPPF reflects this statutory requirement.

6.74 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.

6.75 The scheme proposes to provide 40% of the total number of dwellings as affordable housing and 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 will be secured through the legal agreement to ensure that the provision comes forward in a manner that reflects and meets local need. The detailed drafting of the provisions to be contained within the legal agreement in this respect are currently being worked up in liaison with the Council's Housing Services team to ensure the provision acceptably meets identified need within this part of the Borough.

6.76 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 accordance with this policy as significant areas of amenity space and play areas are to be incorporated into the layout. It is not possible to incorporate outdoor sports facilities or parks/gardens on site and in these circumstances, the policy allows for a financial contribution to be made towards off-site provision and enhancement. In these respects, the following has been secured:

- £304,903 towards Parks and Gardens at Leybourne Lakes Country Park; and
- £559,390 towards the provision of enhanced Outdoor Sports facilities in the surrounding area.

6.77 Policy CP25 of the TMBCS states that:

1. Development will not be proposed in the LDF or permitted unless the service, transport and community infrastructure necessary to serve it is either available, or will be made available by the time it is needed. All development proposals must therefore either incorporate the infrastructure required as a result of the scheme, or make provision for financial contributions and/or land to secure such infrastructure or service provision at the time it is needed, by means of conditions or a planning obligation.

2. Where development that causes material harm to a natural or historic resource is exceptionally justified, appropriate mitigation measures will be required to minimise or counteract any adverse impacts. Where the implementation of appropriate mitigation is still likely to result in a residual adverse impact then compensatory measures will be required.

6.78 KCC have advised that the development generates a need for 70 additional primary school places and 50 additional secondary school places and that a financial contribution should be sought in each case as follows:

- £1,333,750 towards phase 1 of the new Aylesford Primary School at Whitepost Field, with £802,045 towards the land acquisition for its development.
- £1,171,750 towards the new secondary school at Broadwater Farm, with £764,815 towards the land costs.

6.79 Notwithstanding the conclusions regarding the weight to be afforded to the draft local plan at this stage for decision making purposes, understandably KCC are planning for projects which take into account the proposed development strategies set out by it. There does however need to be a clear mechanism in place to ensure that the impacts of the development in this case can still be mitigated in the event that the strategy does not come forward in the way envisaged or relative timescales do not align. This can be adequately addressed through mechanisms contained within the legal agreement.

6.80 KCC has also advised that in order to mitigate the additional impact that the development would have on delivery of its community services, the payment of appropriate financial contributions is required, as follows:

- £12,596.70 for enhancements and additional library book stock for Larkfield Library;
- £32.57 per dwelling towards additional Community Learning facilities at Aylesford School Adult Education Centre;
- £65.50 per dwelling towards additional resources at Aylesford Youth Club; and
- £146.88 per household towards borough wide Social Care provision.

- 6.81 I am satisfied that sufficient detail has been provided in all these respects to ensure the relevant statutory and policy tests have been met, and the contributions should be secured through the legal agreement, which KCC would also be a party to.
- 6.82 NHS CCG have advised that the proposal will generate approximately 585 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 at potentially the Thornhills Medical Practice, West Malling Group Practice and Watringbury Surgery. Therefore, mitigation is required through the payment of a £210,600 financial contribution towards refurbishment, reconfiguration and/or extension at these surgeries. Again, this requirement is considered to meet the necessary tests and should be secured within the final legal agreement.
- 6.83 The various necessary highways obligations have been discussed at length at paragraphs 6.25 to 6.38 of this report and are not repeated here, other than to make clear they are also required and necessary to make the development acceptable in planning terms and thus meet the statutory and policy tests set out above.

Planning balance and overall conclusions:

- 6.84 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.
- 6.85 The proposed development would provide up to 250 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. These particular benefits were considered by the Inspector very recently in allowing residential development on three parcels of employment land at Kings Hill, noting that they would significantly contribute to the supply and mix of housing in the borough which, particularly due to the extent of current under-supply, would amount to a substantial benefit. Similar benefits would arise through the grant of planning permission in this case.
- 6.86 Furthermore, and given that the overriding consideration in recommending that planning permission be granted here relates to the Council's current five year housing land supply position, I consider it appropriate to impose a shorter time frame on the developer to submit the reserved matters for the scheme pursuant to section 92(2) of the Act. I am therefore recommending that reserved matters be submitted within 18 months of a grant of permission with commencement within a further 18 months of their approval. Whilst I understand the impact the Covid-19 outbreak has had on the economy and the development sector I consider that the

benefit of being able to deliver a residential development of the type would undoubtedly make an important contribution to the overall housing provision in the shorter term. On this basis it is considered that the shorter commencement period is the appropriate recommendation.

6.87 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.

6.88 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: Site Layout 6273-01G dated 10.12.2019, Master Plan LE-20 A dated 10.12.2019, Transport Statement Addendum dated 20.09.2019, Other technical note dated 10.10.2019, Proposed Plans ITL11317-GA-001 dated 01.08.2019, Location Plan 6273-03 dated 01.08.2019, Letter dated 01.08.2019, Statement BUILT HERITAGE dated 01.08.2019, Design and Access Statement dated 01.08.2019, Travel Plan dated 01.08.2019, Planning Statement dated 01.08.2019, Air Quality Assessment dated 01.08.2019, Archaeological Assessment dated 01.08.2019, Drainage Statement dated 01.08.2019, Ecological Assessment dated 01.08.2019, Flood Risk Assessment dated 01.08.2019, Visual Impact Assessment dated 01.08.2019, Noise Assessment dated 01.08.2019, Report Risk Assessment dated 01.08.2019, Statement community involvement dated 01.08.2019, Transport Statement dated 01.08.2019, Appraisal utilities dated 01.08.2019, Drawing ITL11317-GA-017 REV A dated 10.12.2019, Drawing ITL11317-GA-018 dated 10.12.2019, Drawing ITL11317-GA-014 dated 10.12.2019, Transport Statement ITL11317-021B dated 10.12.2019, and subject to:-

- The applicant entering into a planning obligation with the Borough Council to provide on-site affordable housing and financial contributions towards public open space provision (parks and gardens and outdoor sports facilities) and enhancement and health care provision;
- The applicant entering into a planning obligation with Kent County Council to make financial contributions towards off-site highway junction improvements, public transport, the provision of education facilities, and community services

The section 106 agreement is now at an advanced stage of preparation and should be agreed in principle within 1 month and the legalities completed within 3 months of the committee resolution unless there are good reasons for the delay. Should the agreement under Section 106 of the Act not be completed and signed by all relevant parties by 09 October 2020, a report back to the Area 3 Planning Committee will be made either updating on progress and making a further recommendation or in the alternative the application may be refused under powers delegated to the Director of Planning, Housing and Environmental Health who will determine the specific reasons for refusal in consultation with the Chairman and Ward Members.

- The following conditions:

1. Approval of details of the layout and appearance of the development, the landscaping of the site, and the scale of the development (hereinafter called the "reserved matters") shall be obtained from the Local Planning Authority.

Reason: No such approval has been given.

2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of eighteen months 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 three years from the date of this permission, or before the expiration of one year 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 conformity with the indicative layout referenced 6273-01 Rev G and indicative landscape layout referenced LE-20 received 10 December 2019.

Reason: To ensure the scale of the development is compatible with the character of the site and its surroundings.

5. Prior to or as part of the first submission pursuant to condition 1, a scheme detailing the phasing of the construction of the development including the means of access, layout of buildings, car parking and servicing arrangements, shall be submitted to and approved in writing by the Local Planning Authority. The development will be carried out in accordance with the details approved.

Reason: In the interests of highway safety and the amenity of the locality.

6. The details submitted in pursuance to Condition 1 shall be accompanied by a contoured site plan and full details of the slab levels and ridge levels at which the dwellings are to be constructed and development shall be carried out in accordance with the approved details.

Reason: To ensure the scale of the development is compatible with the character of the site and its surroundings.

7. The details submitted in pursuance of Condition 1 shall be accompanied by a scheme of landscaping and boundary treatment. The scheme shall be in conformity to the indicative layout referenced LE-20 received 10 December 2019 and follow the recommendations set out in the Arboricultural Implications Report received 01 August 2019. The scheme shall be approved in writing by the Local Planning Authority and shall be implemented by the approved date. Any trees or plants which within 10 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of visual amenity.

8. The details submitted in pursuance of Condition 1 shall show land, reserved for the parking and turning of vehicles. None of the dwellings hereby approved shall be occupied until these areas have been provided, surfaced and drained in accordance with the approved details. Thereafter 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 private garage or garages) or in such a position as to preclude vehicular access to reserved vehicle parking areas.

Reason: To ensure that adequate parking is provided, maintained and retained.

9. The details submitted pursuant to condition 1 shall show details of vehicle charging points. The charging points shall be approved by the Local Planning Authority and be installed prior to the first occupation of any dwelling, and thereafter maintained and retained in accordance with the approved details.

Reason: To encourage the use of electric vehicles in the interests of mitigating climate change in accordance with national objectives.

10. The details submitted in pursuance of Condition 1 shall show the proposed enhancements to the Public Rights of Way MR119 and MR120 through the site and their linkages to the surrounding highway network in conformity with the indicative layout referenced 6273-01 Rev G received 10 December 2019. None of the dwellings hereby approved shall be occupied until these routes have been

provided, surfaced and drained in accordance with the approved details and shall be retained and maintained at all times thereafter.

Reason: To promote healthy lifestyles and social connectivity and to protect the visual amenity and character of the area.

11. None of the dwellings hereby approved shall be occupied until the access from A20 London Road as shown in principle on drawing number ITL11317-GA-014-Rev H received 27 February 2020 has been substantially completed.

Reason: The undertaking of the works without the proposed highways improvements is likely to result in unacceptable traffic conditions in the surrounding area.

12. Prior to the commencement of the development hereby approved, arrangements for the management of all construction works shall be submitted to and approved by the Local Planning Authority. The management arrangements to be submitted shall include (but not necessarily be limited to) the following:

- The days of the week and hours of the day when the construction works will be limited to and measures to ensure these are adhered to;
- Procedures for managing all traffic movements associated with the construction works including (but not limited to) the delivery of building materials to the site (including the times of the day when those deliveries will be permitted to take place and how/where materials will be offloaded into the site) and for the management of all other construction related traffic and measures to ensure these are adhered to;
- Procedures for notifying neighbouring properties as to the ongoing timetabling of works, the nature of the works and likely their duration, with particular reference to any such works which may give rise to noise and disturbance and any other regular liaison or information dissemination; and
- The specific arrangements for the parking of contractor's vehicles within or around the site during construction and any external storage of materials or plant throughout the construction phase.

The development shall be undertaken in full compliance with the approved details.

Reason: In the interests of residential amenity and highway safety.

13. The use shall not be commenced, nor any premises occupied until details of a scheme for the storage and screening of refuse has been submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before the development is occupied and shall be retained at all times thereafter.

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

14. The details submitted in pursuance of Condition 1 shall show the proposed areas of amenity, natural and formal open space, Neighbourhood Equipped Area of Play, a centrally located Local Equipped Area of Play and Local Areas of Play, along with a timetable for their implementation. The details shall be approved by the Local Planning Authority and be installed in accordance with the approved and maintained and retained at all times thereafter.

Reason: To ensure suitable levels of open space in the interests of health and wellbeing and to ensure compliance with Policy OS3 of the MDE DPD 2010.

15. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of
- i archaeological field evaluation 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, any safeguarding measures to ensure preservation in situ of important archaeological remains 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.

16. The details submitted in pursuance to Condition 1 shall provide details and samples of all materials to be used externally. These details shall be submitted to and approved 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 of the countryside.

17. The details submitted in pursuance of Condition 1 shall incorporate the mitigation and enhancement measures detailed in the Ecological Assessment received 1 August 2019. The measures shall be submitted to and approved by the Local Planning Authority, and implemented in accordance with an agreed timetable and retained thereafter.

Reason: In the interests of nature conservation and biodiversity.

18. The details submitted in pursuance of Condition 1 shall incorporate the mitigation measures detailed in the Air Quality Assessment received 1 August 2019. The

measures shall be submitted to and approved by the Local Planning Authority, and implemented in accordance with an agreed timetable and retained thereafter.

Reason: To ensure suitable levels of air quality

19. No above ground works, other than ground investigations work or site survey works, shall commence until a scheme to connect all plots to mains foul drainage has been submitted to, and approved in writing by the local planning authority. The occupation of the development hereby permitted is to be phased and implemented to align with the delivery by Southern Water of any required sewerage network reinforcement.

Reason: To ensure that adequate waste water network capacity is available to adequately drain the development.

20. No development shall take place other than as required as part of any relevant approved site investigation works until the following have been submitted to and approved by the Local Planning Authority:

a) results of the site investigations (including any necessary intrusive investigations) and a risk assessment of the degree and nature of any contamination on site and the impact on human health, controlled waters and the wider environment. These results shall include a detailed remediation method statement informed by the site investigation results and associated risk assessment, which details how the site will be made suitable for its approved end use through removal or mitigation measures. The method statement must include details of all works to be undertaken, proposed remediation objectives, remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site cannot be determined as Contaminated Land as defined under Part 2A of the Environmental Protection Act 1990 (or as otherwise amended).

The submitted scheme shall include details of arrangements for responding to any discovery of unforeseen contamination during the undertaking hereby permitted. Such arrangements shall include a requirement to notify the Local Planning Authority in writing of the presence of any such unforeseen contamination along with a timetable of works to be undertaken to make the site suitable for its approved end use.

(b) prior to the commencement of the development the relevant approved remediation scheme shall be carried out as approved. The Local Planning Authority should be given a minimum of two weeks written notification of the commencement of the remediation scheme works.

Reason: In the interests of amenity, public safety and human health and in accordance with Paragraph 170 of the NPPF 2019.

21. Following completion of the approved remediation strategy, and prior to the first occupation of the development, a relevant verification report that scientifically and technically demonstrates the effectiveness and completion of the remediation scheme at above and below ground level shall be submitted for the information of the Local Planning Authority. The report shall be undertaken in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. Where it is identified that further remediation works are necessary, details and a timetable of those works shall be submitted to the Local Planning Authority for written approval and shall be fully implemented as approved. Thereafter, no works shall take place such as to prejudice the effectiveness of the approved scheme of remediation.

Reason: In the interests of amenity, public safety and human health and in accordance with paragraph 170 of the NPPF 2019.

22. Development shall not begin in any phase 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 be based upon the DRAINAGE ASSESSMENT, ref C85673-R400A and 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 within the curtilage of the site without increase to flood risk on or off-site.

The drainage scheme shall also demonstrate (with reference to published guidance):

- that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details.

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.

23. No building 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 and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate the suitable modelled operation of the drainage system where the system constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework.

24. No infiltration of surface water drainage into the ground is permitted other than with the written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants in line with paragraph 170 of the National Planning Policy Framework.

Informatives

1. 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 address(es) to the new property/ies. To discuss the arrangements, you are invited 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@tmhc.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.
2. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.
3. During the demolition and construction phases, the hours of noisy working (including deliveries) likely to affect nearby properties should be restricted to Monday to Friday 07:30 hours - 18:30 hours; Saturday 08:00 to 13:00 hours; with no such work on Sundays or Public or Bank Holidays.

4. The CL:AIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice: excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution treated materials can be transferred between sites as part of a hub and cluster project some naturally occurring clean material can be transferred directly between sites.
5. Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.
6. The Environment Agency recommends that developers should refer to the Position statement on the Definition of Waste: Development Industry Code of Practice and the Environmental regulations page on GOV.UK.
7. No bonfires should be had at the site to avoid justified complaints from neighbours.
8. The network provided by Southern Water may require reinforcement. Accordingly Southern Water and the Developer will need to work together in order to ensure the delivery of the network reinforcement aligns with the proposed occupation of the development, as it will take time to design and deliver any such reinforcement.
9. It is recommended 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
10. The applicant is strongly encouraged to consider opportunities for incorporating renewable energy technologies and measures to support biodiversity into the approved development.

Contact: Robin Gilbert

SUPPLEMENTARY REPORTS**AREA 3 PLANNING COMMITTEE DATED 9 July 2020**

**East Malling And Larkfield TM/19/01814/OA
East Malling****Outline Application: Erection of up to 250 new homes (40% affordable), new community building, areas of public open spaces, areas of play, upgrade of existing footpaths, together with new vehicular access onto London Road and associated parking and landscaping at Development Site Land West Of Winterfield Lane East Malling West Malling Kent**

Leybourne PC: Has raised detailed questions about the contributions that are being sought in order to mitigate the impacts of the development proposed (in accordance with statutory and policy tests), suggesting that the contributions should/could be attributed to other local schemes. These suggestions are summarised as follows:

- Leybourne Parish Council had drawn up plans (in conjunction with TMBC) to make Leybourne Castle Lakes a location of AONB, as a wildlife and educational facility for the local communities and would be working with partnership organisations to achieve this proposal.
- Local playing fields in the area including at Oxley Shaw Lane;
- New primary school at the site where ample land is available to accommodate such provision rather than in Aylesford;
- Support for youth work at the village hall rather than at Aylesford in order to fund activities and provide a dedicated Youth Worker which will provide immediate benefit for this community;
- Health contribution should be directed to Leybourne Surgery.

Private Reps: A further 331 objections and 7 supporting representations have been received since publication of the main agenda papers. The comments received do not raise any new material planning considerations beyond those addressed in the main report.

A petition with a total of 861 signatures has also been received by the Council. The objections raised in the petition are summarised as follows:

- Site is countryside and is proposed to be included within the Green Belt within the draft local plan;

- Site is good agricultural land, an important green space with rural public footpaths providing a recreational asset the character of which would be lost if incorporated into the development
- Important within the local landscape, adjoins the CA and helps retain the separate identities of East and West Malling

Officers are also aware of a separate petition (with 930 signatures) having been circulated to all Members of the Planning Committee by email on 08 July, stating “*Stop this development in East Malling that threatens our Green Belt and Open Spaces*”

The matters raised by the petitions have been fully addressed within the main agenda papers throughout the assessment.

DPHEH:

Planning obligations:

For the avoidance of any doubt, all planning obligations sought via the section 106 legal agreement in this (and indeed any) case must meet the statutory and policy tests which are cited at paragraph 6.72 of the main agenda. Projects have been specifically identified in all instances to meet these requirements and it is not possible to simply redirect any element of the contributions secured to an alternative scheme (should one come forward) simply out of preference. In terms of open space provision, adopted policy OS3 (2) of the MDE DPD clearly sets out that the form and level of the provision of open space will be determined in accordance with the sequential approach and methodology set out in Annex D of the MDE DPD. This was applied in this instance and it is a consequence of that exercise (which is a requirement of adopted policy) that has resulted in the form and level of provision that will be required in association with this development.

In brief response to the points raised by Leybourne PC, to assist Members, I can advise as follows:

- The parks and gardens contribution is aimed at Leybourne Lakes because there is an identified project at this site, which is required in order to meet the tests for securing contributions; policy OS3 sets out a hierarchy of types of open space with parks and gardens being the top layer of this provision with the primary purpose of providing accessible high quality open space that offers opportunities for informal recreation and community events.
- With regard to outdoor sports facilities, the contribution is worded to be used for facilities in the surrounding area, which includes Leybourne;
- Where contributions towards schools are required; KCC as the Education Authority sets out the specific projects to which these should be dedicated based on their own evidence and requirements. This is also the case for projects

relating to youth facilities in the vicinity. KCC will be a party to the s106 legal agreement on this basis;

- In making their representations, the CCG has considered the closest surgery; Leybourne Surgery is part of the West Malling Group practice which is one of the practice groups listed as a project to which the contribution would be directed.

Outwith the assessment and determination of this application, officers would strongly encourage the Parish Councils to discuss potential projects with Borough and County Council officers going forward.

Draft Local Plan:

Officers are aware that Members were contacted in writing on 08 July by a representative on behalf of the “Protect West Malling Action Group” concerning in particular matters related to the policies contained within both the adopted LDF and draft local plan as submitted for examination. The contents of the letter provided to Members is ultimately misleading and as such, the following detailed officer guidance is set out below:

Members will be aware that the local plan has been submitted for examination, and the dates for the initial phase of hearings have now been set. NPPF Paragraphs 48 - 50 set out the weight which can be given to policies in emerging plans and the circumstances where it could be argued that a proposal is “premature” and should be refused on that basis:

“48. Local planning authorities may give weight to relevant policies in emerging plans according to: a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given); b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)”²².

49. However in the context of the Framework – 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.

50. Refusal of planning permission on grounds of prematurity will seldom be justified where a draft plan has yet to be submitted for examination; or – in the case of a neighbourhood plan – before the end of the local planning authority publicity period on the draft plan. 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.

²² During the transitional period for emerging plans submitted for examination (set out in paragraph 214), consistency should be tested against the previous Framework published in March 2012.”

When the emerging plan is at an “advanced” stage is not a defined position. However, in ***Leeds City Council v The Secretary of State for Housing, Communities and Local Government & Taylor Wimpey (UK) Limited [2019] EWHC 682 (Admin)***, the approach of the Inspector to this was challenged. At Inquiry, the Inspector had found that *“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.”* (my emphasis). The judge found no fault with this reasoning, which he found to be in line with PPG guidance, now enshrined in paragraphs 48-50 NPPF.

Turning to each of the relevant paragraphs, paragraph 48 deals with the weight to be attached to emerging policies (in this case the Green Belt extension encompassing the application site) and sets out 3 tests.

Test (a) is the degree of advancement of the plan. The approach of the Inspector in Leeds (above) is a reasonable approach to take. One must be satisfied that it is reasonably clear what final form the plan would take. At this point in time, in particular where the Inspector’s Matters, Issues and Questions have made clear there are questions over how the revised Green Belt boundaries have been set, it cannot be said with any certainty whether this site would remain unaffected in the emerging plan or subject to main modifications which might take all or part of the site out of the proposed Green Belt extension.

Under (b) there are unresolved objections to this site being included in the Green Belt, not least from the applicant. These will not be resolved until the examination of these issues has taken place.

As to (c), the policies are, in our view, consistent with the NPPF 2012. However, given the conclusions above regarding “advanced stage” and the outstanding objections, only limited weight can be afforded to the emerging policy at the present time.

On to prematurity, paragraph 49 sets out two tests which must be satisfied if prematurity is to justify a refusal of planning permission. Firstly, that the development would predetermine “decisions about the scale, location and phasing of new development that are central to the emerging plan.” This, primarily, would seem to mean that the effect of the proposal would have to predetermine decisions about *allocated development sites* within the emerging plan. The site is not allocated within the emerging plan for development. It could be said that the provision of 250 additional homes here could have an effect on the objectively assessed need/ five year housing supply which might have a knock-on effect on the numbers of houses needing to be provided through the local plan. However, given the relatively small scale of this development, considered against the housing need over the emerging plan period, this effect is likely to be small.

Secondly, how advanced the plan is. For the reasons set out above, it is considered that the plan is not at an advanced stage; therefore, *even if* the first test in paragraph 49 is met, the second is not.

New Homes Bonus:

Officers are aware that the developer has recently highlighted the fact that the Council would be in receipt of New Homes Bonus in the event that planning permission for this development is granted; the intention being to highlight purported benefits of the development coming forward in view of the test the Council is required to undertake in respect of the presumption in favour of sustainable development (paragraph 11(d) (ii) of the NPPF).

The Planning Practice Guidance (the “PPG”) sets out that section 70 (2) of the Town and Country Planning Act 1990 provides that a local planning authority must have regard to a local finance consideration as far as it is material. [Section 70\(4\) of the 1990 Act \(as amended\)](#) defines a local finance consideration as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy. It goes on to state as follows:

“Whether or not a ‘local finance consideration’ is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. It would not be appropriate to make a decision based on the potential for the development to raise money for a local authority or other government body

In deciding an application for planning permission or appeal where a local financial consideration is material, decision takers need to ensure that the reasons supporting the decision clearly state how the consideration has been taken into account and its connection to the development.

New Homes Bonus payments recognise the efforts made by authorities to bring residential development forward. Even where anticipated Bonus payments are not a material consideration in making planning decisions, they can be noted for information in committee reports on applications for housing. Where this is done, care will be required not to imply that Bonus payments are relevant to the decision before the committee.”

In straightforward terms, officers consider that receipt of New Homes Bonus (NHB) is not a material planning consideration. Whilst it would have an economic benefit to the community as a whole, there are no identified measures necessary to offset the impacts of the development to which NHB funding has been allocated and no policy basis upon which to do so.

Even if the NHB were to be a material consideration it would carry little weight because

- (i) the Council has already received its allocation for the financial year 2020/21;
- (ii) there is no certainty over the actual level of NHB which the scheme might generate (given that the application is in outline) and
- (iii) there is some uncertainty as to whether NHB funding will continue to be given by central government next year or in future years at all.

RECOMMENDATION REMAINS UNCHANGED