

Tonbridge
Judd

15 January 2019

TM/19/00014/OAEA

Proposal: Outline Application: construction of up to 125 new homes, the formation of new means of access onto Lower Haysden Lane, new pedestrian and cycle links (including links to the existing playing fields and Country Park to the west), the laying out of open space, new strategic landscaping, habitat creation, drainage features and associated ground works and infrastructure

Location: Land North Of Lower Haysden Lane Tonbridge Kent

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1. Description:

- 1.1 Outline planning permission is sought for a residential development of up to 125 dwellings on land currently used for agricultural purposes. Whilst the application is in outline form, access is a matter to be considered at this stage with all other matters reserved for future consideration. However, plans and documents have been submitted to illustrate how a development of this amount could be accommodated across the site.
- 1.2 Access is to be provided off a realigned junction at Brook Street and Lower Haysden Lane, with the latter being conjoined with the proposed access to the site.
- 1.3 The residential development is indicatively shown to be located towards the southern end of the site because the more northern section lies within Flood Zones 2 and 3. The proposed development would broadly sit within three separate parcels, corresponding with the existing field boundaries located within the site with the access entering the eastern most parcel.
- 1.4 A 40% provision of affordable housing would be provided as part of the development. In terms of open space, childrens' and young persons' play areas, amenity green space and natural/semi natural open space would be provided on site.
- 1.5 The submission indicates that the proposed dwellings would in the main be 2 storeys in height with 2.5 storey height building in key locations. It is envisaged that a mix of 2, 3, 4 and 5 bed units, both market and affordable, would be provided within the development.
- 1.6 The overall site area is approx. 10.64 ha with the proposed (indicative) development parcels making up 4.4ha of the site. Of the remaining area, approximately 5.6ha would consist of open space with the remainder being accounted for by the principal access road and realigned section of Lower Haysden Lane. The development would provide a new section of public

footpath, linking to the existing footpath along Brook Street. The new stretch of footpath would run along the site's southern boundary adjacent to Lower Haysden Lane and terminate at the western boundary of the site.

- 1.7 A Members' Site Inspection took place on 07 December where the attending Members viewed all of the parcels of land within the site, the existing boundary features as well the approach from Brook Street and Lower Haysden Lane

2. Reason for reporting to Committee:

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

3. The Site:

- 3.1 The site measures approx. 10.64 ha in area and comprises gently rising land that slopes up from north to south and which also slopes gently down from west to the central section of the site where a drainage ditch lies aligned north/south. The site is laid to pasture and the field boundaries are marked by mature hedgerows and trees.

- 3.2 A copse of Ancient Woodland (AW) lies adjacent to the northern boundary of the site, with a line of protected trees (Oak) running southwards from it. A separate group of protected trees (Oak and Ash) lies within the south east corner of the site, adjacent to the Hayesbrook School.

- 3.3 To the south of the site lies Lower Haysden Lane with Brook Street beyond it. To the west, the site adjoins the Vizards playing pitches associated with the Judd School. To the north lies more open agricultural land also owned/controlled by the applicant (as indicated by the blue line of the site location plan). This terminates on the southern side of the railway line. To the east lies the developed confines of Tonbridge (the boundary of Hayesbrook School and residential properties in Old Barn Close, Brook Street Farm, The Grange and Hazelwood).

4. Planning History (relevant):

TM/16/01715/EASC	screening opinion EIA required	21 June 2016
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Request for Screening Opinion under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 for the proposed development of up to 250 dwellings, public open space and access on land north of Lower Haysden Lane, Tonbridge

TM/16/03305/EASP	EIA opinion scoping application	7 December 2016
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Request for EIA Scoping opinion under the Town and Country planning (Environmental Impact Assessment) (Amendment) Regulations 2015 for the proposed development of up to 210 dwellings, public open space and access on land to the north of Lower Haysden Lane, Tonbridge

5. Consultees:

- 5.1 KCC (H&T): All representations reproduced at Appendices 1A-1E to this report
- 5.2 National Highways (formerly known as Highways England): All representations reproduced at Appendices 2A-2C
- 5.3 EA: All representations reproduced at Appendices 3A -3C
- 5.4 Southern Water: All representations reproduced at Appendices 4A-4C
- 5.5 KCC (SUDS): All representations reproduced at Appendices 5A-5C
- 5.6 KCC (Economic Development): All representations reproduced at Appendices 6A and 6B
- 5.7 NHS: All representations reproduced at Appendix 7
- 5.8 Natural England: No objections raised. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected sites.
- 5.9 Kent Wildlife Trust: Objections raised on the grounds that insufficient consideration has been given to potential recreational disturbance on Haysden Country Park, part of which is designated as Local Wildlife Site TM26 River Medway South of Leigh. Additional disturbance pressure to this site would be contrary to Policy LM13 of the Tonbridge and Malling Emergent Local Plan, which states that “development must protect and where possible enhance...Local Wildlife Sites”.
- 5.9.1 The Environmental Statement that forms part of the application states that “from viewing the available information for the designated LWSs within 2km of the Site boundary, vulnerability to public access and recreation is not identified”. While this might not be explicitly the case, the citation for Local Wildlife Site TM26 states that it has been designated in part for its significant breeding populations of mammal and bird species. These breeding populations would be inherently vulnerable to increase disturbance from public access and recreation pressure. Several of these species are designated as of principle importance under the s.41 NERC Act 2006, including otter, turtle dove, spotted flycatcher and bullfinch, placing a statutory duty on Local Authorities to protect them. The proposed on-site mitigation provides for an area of approximately 1.5 ha of open space including limited habitat enhancement. We do not consider

adequately compensates for both on- on-site habitat loss and potential off-site disturbance to an area of high ecological sensitivity.

- 5.9.2 The Environmental Statement also states that the provision of open space on-site will act to “draw people away from using other sites for recreation” (including Haysden Country Park), and as a result “the Development would not have a significant negative effect on these designated sites and therefore are not within the Zone of Influence”. We consider that the applicant has not adequately demonstrated this assertion. Given that the entrance to Country Park is less than 400m from the proposed development, we are of the opinion that it should be considered within the Zone of Influence and therefore appropriate compensation for disturbance should be provided.
- 5.9.3 Furthermore we note that the Design and Access Statement that forms part of the application explicitly states the intention to “facilitate a safe and enhanced access to Haysden Country Park”. This includes providing an “opportunity to improve the access for coaches / vehicles heading west to the Judd School sports complex and Haysden Country Park along Lower Haysden Lane” and creating “a new arrival green space to enhance the entrance to the site and to act as a gateway to the Haysden Country Park”. This document appears to support our assertion that the County Park is very likely to be subject to greater visitor pressure as a result of the development, and contradicts the assertions of the Environmental Statement.
- 5.9.4 In addition, we are concerned about the potential cumulative impact of this development when combined with other future developments in the area. The emergent Local Plan identifies this development as part of a larger strategic site (outlined in policy LM31) where it is anticipated that up to 480 homes will be built. In our response to the regulation 19 consultation for the emergent Local Plan, dated 26th November 2018, we have already stated that there should be a requirement that development on this strategic site should include “mitigation measures to account for increased visitor disturbance to TM26 River Medway South of Leigh Local Wildlife Site and Haysden Country Park”.
- 5.9.5 If this development is permitted it should be under the condition that the applicant enter into a s.106 agreement with Tonbridge and Malling Borough Council, as owners of the County Park, to provide a financial contribution towards the future management and enhancement of the site. If such an agreement is entered into with sufficiently robust measures to protect and enhance biodiversity in the Local Wildlife Site (in accordance with Policy LM13 of the Tonbridge and Malling emergent Local Plan) we would consider withdrawing our objection.
- 5.10 KCC Archaeology: The site of the proposed development lies on River Terrace Gravels. These deposits have potential to contain remains associated with Palaeolithic or early prehistoric activity. The site also lies adjacent to a historic

farm complex including the Listed Building of Brook Street Farm. This is a post medieval farm complex and remains associated with its earlier phases may survive on the site.

- 5.10.1 Cultural Heritage was scoped out of an EIA for this site and I agreed that, based on current information, there is unlikely to be any significant archaeological issue affected by development. However, there are heritage issues to address and this outline planning application is not supported by any assessment of heritage issues at all. I believe the 2016 Scoping Report Statement did mention that a separate Archaeological report would be submitted supporting an application (paragraph 2.56 on TM/16/03305). Given the size and scale of this development, this outline planning application should preferably have been supported by an assessment of archaeological issues
- 5.10.2 Although based on current information there seem to be no clear impact on known archaeological remains, there is potential for as yet unknown remains to survive on this site. In addition, in view of the presence of gravels there is potential for Palaeolithic remains. There are increasing and recent indications of wider prehistoric and later settlement in this area, particularly Iron Age settlements and industrial activity. Brook Street Farm is of historic interest and needs some consideration.
- 5.10.3 As such I am disappointed that there is no Cultural Heritage assessment supporting this outline application. I recommend that consideration of undertaking one now is reviewed. Issues which would benefit from some consideration are Palaeolithic, Prehistoric Archaeology, Archaeological Landscapes and Post Medieval agrarian heritage but a broad Archaeological DBA would be appropriate and in accordance with NPPF.
- 5.10.4 If it is considered appropriate to determine this application at this stage, I recommend that conditions are placed on any forthcoming consent

5.11 TMBC EP:

Noise:

- 5.11.1 If this application does proceed we would need further clarification on any potential noise nuisance arising from the Hayesbrook School especially as the playground is situated close to the proposed development and could adversely impact on future residents.

Additional representations:

- 5.11.2 I note the comments in the Noise report by Brookbanks. I have no objections to the methodology however whilst section 10.1 identifies noise from the Tonbridge-Redhill Railway as a significant source affecting the proposed development figure 8.11 shows properties on the northern boundary towards

the railways are not included in the additional mitigation. Given the railway also adjoins a working railyard which can operate 24/7 at times this must be addressed for the amenity of residents. I would also recommend methods of ventilation which allow 'purge' ventilation without the need to open windows should the resident so wish.

Contaminated land

- 5.11.3 There are no records of this land being previously developed so contamination does not need to be considered as part of the EIA.

Air Quality:

- 5.11.4 I do need to see data from monitoring location TN109 St Augustine's used in their models as this is the closest point to the development and there is two full years of data they can use from this main road. I would also like to see modelled receptors locations used along Quarry hill Road between the junction with Brook street and roundabout with Pembury Road as this will see an increase in traffic at peak times on the road.
- 5.11.5 Paragraph 10.98 states the number of exceedances of short term (24-hour) PM10 objective of 50 ug/m³ (A) has been calculated from the annual mean following the approach set out by DEFRA in LAQM.TG(09). This should be (16) not (09).

Additional representations:

- 5.11.6 I agree with the conclusions in the updated Env Statement. I would recommend that provisions to properties for EV charging be made to this development.
- 5.12 TMBC Housing: Affordable housing delivery of 40% of the total number of units developed complies with CP17. Within the 40% policy a tenure split of 70% affordable housing for rent and 30% intermediate housing (such as shared ownership).
- 5.12.1 The need for a Local Lettings Policy needs to be included in the S106 agreement, to allow for the prioritisation of households with a local connection to the area in which the development is sited. Nominations to the affordable homes for rent will be from the housing register.
- 5.13 TMBC Waste Services: Presentation of bins/boxes and The Service TMBC operates a two x wheeled bin and green box refuse and recycling collection service from the boundary of the property with the public highway. The service operates on an alternate week basis (general refuse one week and green waste/recycling the next). Bins/Boxes must be stored within the boundary of the property and placed at the nearest point to the public highway by 7 a.m. on

collection day and returned to its storage point on the property by the end of the day.

- 5.13.1 Vehicle access: It is important that our collection vehicles are able to have safe access and egress from the development generally and at each collection point. If this is not possible either on a permanent or temporary basis then we will be unable to provide the collection service.
- 5.13.2 It should also be noted that on-street car parking often gives rise to delays or inability to provide the service due to access problems. Adequate off-street parking/designated parking bays and the application of traffic restrictions e.g. double yellow lines can all aid provision of the service. Collection of bins from individual property boundaries, or specified presentation points and bin storage areas can be achieved where vehicle access is permitted and road constructed to highway standard and adequate to withstand frequent use by 32 tonne (gross vehicle weight) refuse freighters.
- 5.13.3 Appropriate turning areas (for vehicles 12.5 m x 3m, with 6m wheelbase and 4.5m height) must be designed in to the development. Parking restrictions e.g. enforceable yellow lines where necessary to aid access where the highway is adopted. Unadopted roads should be designed to eliminate parking in areas where access for the collection vehicles would be hindered.
- 5.13.4 Vehicle Access Consideration should be given to the type of materials used for road surfacing especially in turning areas and gateways/access areas for bin stores. Some surfaces, such as brick or block, that are more popular in some of the more modern developments can suffer unduly from wear and tear caused by normal but frequent large goods vehicle movements. This can be so particularly in spells of prolonged wet weather. TMBC will not be held liable for excessive wear and tear or sinking/shifting of block and brick, or any other road surfaces as a result of its contractors' vehicle movements during the provision of the collection services and necessary movements related thereto.
- 5.14 TMBC Leisure Services: Representations received are reproduced at Appendix 8 of this report.
- 5.15 Private Reps (including response to site and press notices): 18:5X/3S/99R. The reasons given for objecting to the proposed development are:
- The development will cause additional congestion in the local area
 - Impact upon the existing drainage systems
 - Adverse impacts upon biodiversity
 - There are more suitable sites in town

- Building upon the Green Belt
- The land is safeguarded and should be kept free from development
- Make use of empty buildings first
- There is already a need for more doctors and school places. The development will make this worse
- The buildings will be close to my property with the inevitable disturbance, noise, fumes etc during the construction phase
- The additional congestion will impact upon air quality and the safety of pedestrians
- It will have an adverse impact upon the character of the local area given that it will build on open countryside.
- No mitigation is shown for the increase in road traffic that will be caused by the development.
- The added congestion will harm the safety of the school children walking to the new school sports pitches in Lower Haysden Lane.
- The development is completely unnecessary
- The whole site is waterlogged in the winter and when Tonbridge flooded the water ingressed up to the boundary of the site.
- The development would not respect the setting of the adjacent dwellings.
- The heritage assessment does not consider the impact of vibration upon the adjacent Listed Building
- There is a lack of affordable housing in the area and the development would not help the situation.
- There's no plan for flooding
- Lack of segregated cycle way along Waterloo Road
- Just putting a cycle route along Waterloo Road will not help the traffic congestion
- Risk of people leaving the community centre and church office being hit by cyclists using the proposed cycle lane along Waterloo Road

6. Determining Issues:

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 (July 2021) 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 Members will be aware that Council has taken the decision to withdraw the previously submitted draft local plan. As such, the policies contained within this plan hold no weight for decision making purposes at this time.

6.4 The adopted development plan therefore continues to consist of:

- Tonbridge and Malling Borough Core Strategy 2007 (TMBCS)
- Managing Development and the Environment Development Plan Document 2010 (MDE DPD)
- Development Land Allocation – Development Plan Document 2008 (DLA DPD)
- Tonbridge Central Area Action Plan 2008 (TCAAP)

- 6.5 In terms of the principles of the development, policies CP3 and CP4 of the TMBCS are the most important to the determination of this application, due to its specific locational characteristics being contained mainly within an area of land safeguarded for development, but with a small section of the south west corner of the site lying within the Green Belt.
- 6.6 Policy CP4 defines the majority of the land within the application as “Safeguarded Land”, reserved for future development. It states that this land will not be released for development before 2021 other than through a review of the Development Plan and only then if there is a demonstrable shortfall of housing land relative to the prevailing requirements of the South East Plan.
- 6.7 With regard to the first trigger point stipulated by policy CP4, the land would not, if permission is granted, be released for development before 2021 and therefore the policy would support the principle of the majority of the application site being developed (excluding the small south west corner that extends into the Green Belt).
- 6.8 Whilst there is no need to consider whether the other stipulations of policy CP4 would now be met, it is worth noting that the South East Plan was abolished some time ago and there is, as has been set out earlier in this report, a shortfall of housing land within the Borough (using the Government’s standard methodology). Therefore, notwithstanding the fact that a review of the Development Plan has not yet taken place, there is no principal objection within policy CP4 to the safeguarded land within the site now coming forward for development.
- 6.9 As policy CP4 seeks to keep the site available for development after a given point in time, it is not considered to be out of date with the NPPF. Full weight to this policy can therefore be afforded.
- 6.10 Policy CP3 of the TMBCS applies the current national Green Belt policy to development within the Metropolitan Green Belt that falls within the Borough. As such this policy is also not out of date with the NPPF either.
- 6.11 With regard to the application of the presumption in favour of sustainable development, regard must first be had for whether any restrictive policies within the Framework (paragraph 11 d (i), footnote 7) provide a clear reason for refusing the development proposed. In this case, some of the policies referred to in footnote 7 of the NPPF apply to the site the subject of this application, chiefly those relating to the Green Belt, flood risk and heritage assets. The development will, therefore, be assessed against each of the relevant policies to establish whether any of them provide a clear reason for refusing permission for the proposed development.
- 6.12 Turning first to Green Belt policy, paragraphs 147 and 148 state:

“Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.”

“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.”

- 6.13 Paragraph 149 states that LPAs should regard the construction of new buildings as inappropriate development unless they would fall within a particular type of development listed within that paragraph of the NPPF. The proposed development is not just for an additional 125 housing, although this is a significant part of it. The development includes a substantial element of open space as well (over 5ha in all). The submitted indicative masterplan shows how a layout of the proposed 125 could be accommodated to lie outside the area of Green Belt and for that part of the site to contain landscaped open space including a section of footpath that would form part of a wider circular walk around the site. This would be considered as being an engineering operation to which paragraph 150 of the NPPF applies. This states:

“ Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.”

- 6.14 The purposes of including land within Green Belt are listed within paragraph 138 of the NPPF as:

“a) to check the unrestricted sprawl of large built-up areas;
b) to prevent neighbouring towns merging into one another;
c) to assist in safeguarding the countryside from encroachment;
d) to preserve the setting and special character of historic towns; and
e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.”

- 6.15 It is not shown in the submitted details that substantial reforming of the land would be required as part of the intended masterplan to provide the open space within the south west corner of the site. Even taking into account the possibility of providing a footpath within this area, this open, undeveloped part of the site would preserve the openness of the Green Belt and not conflict with any of the purposes of including land within it. As such I am satisfied that the proposed development would not be inappropriate development within the Green Belt.

- 6.16 With regard to policies concerning flood risk, Chapter 14 of the NPPF applies. Paragraph 159 states:

“Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.”

6.17 Paragraph 160 states:

“Strategic policies should be informed by a strategic flood risk assessment, and should manage flood risk from all sources.”

6.18 The site is, of course, safeguarded within the current development plan for development and that safeguarded status was, of course, informed by a Strategic Flood Risk Assessment. As such there can be no objection in principle on flood risk grounds to the proposed development.

6.19 As has been set out earlier in this report, whilst parts of the site lie within flood zones 2 and 3, the planned development parcels lie outside of these areas in parts of the site at lowest risk to flooding, which complies with the NPPF at paragraph 159. It must also be noted that the EA has not objected to the proposed development but did note that the site is subject to surface water flooding and the LPA will need to be satisfied that this particular risk can be adequately mitigated.

6.20 The Lead Local Flood Authority (KCC) has been consulted upon the proposed development and has not objected to the proposed development (which includes a drainage strategy for the site), subject to the use of conditions to secure a SUDS scheme and ensure that the approved scheme will be implemented and maintained going forward.

6.21 Consequently, there are no specific policies regarding flood risk within the NPPF that provide a clear reason to refuse permission for the proposed development.

6.22 Turning now to impacts upon the historic environment, the only designated heritage assets close to the site are the two Listed Buildings known as Brook Street Farm and The Grange, located to the south east of the application site. The NPPF provides guidance within chapter 16 as how to assess development proposals where they may affect such assets. Paragraph 197 states:

“In determining applications, local planning authorities should take account of:

a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;

b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and

c) the desirability of new development making a positive contribution to local character and distinctiveness.”

6.23 Paragraph 200 goes on to state:

*“Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, **or from development within its setting**), should require clear and convincing justification.”* (my emphasis)

6.24 The masterplan indicates that some dwellings could be located immediately to the north of the cluster of dwellings that the two Listed Buildings form part of. However, the landscape strategy clearly shows that the existing boundary hedges located around this section of the site are to be retained and a reasonable degree of separation can be maintained between the Listed Buildings and the proposed dwellings. Moreover, the historic setting of these two historic dwellings has changed in more recent times, with the addition of Old Barn Close immediately to the east and the dwelling at Hazelwood to the west. Given the existing context and that the landscaping/layout of the site can be controlled at the RM stage to ensure that no unacceptable harm would be caused to the setting of the adjacent Listed Buildings, I am satisfied that policies within the NPPF that seek to protect heritage assets do not provide a clear reason to refuse the proposed development.

6.25 Having completed the assessment under paragraph 11 d (i) of the NPPF I am satisfied that there are no specific policies within the NPPF that would provide a clear reason for refusing permission. Consequently the assessment must now move on to consider the impacts of the development more generally as required by point d(ii) of paragraph 11. This states that permission should be granted for this development 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.

Locational characteristics and associated impacts:

6.26 Paragraph 79 of the NPPF advises that “to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.” Paragraph 80 provides further guidance by stating that “planning policies and decisions should avoid the development of isolated homes in the countryside”.

6.27 Given that the site lies within the countryside as designated – and notwithstanding my earlier comments concerning the application of policy CP4 of the TMBCS – an assessment of the development on this basis must take place.

6.28 The interpretation of isolated homes in the countryside has been clarified in the Court of Appeal judgment in Braintree DC v SSCLG [2018] EWCA Civ. 610. In

this judgment, LJ Lindblom stated that when taken in its particular context within the policy “the word ‘isolated’ in the phrase ‘isolated homes in the countryside’ simply connotes a dwelling that is physically separate or remote from a settlement. Whether a proposed new dwelling that is, or is not, “isolated” in this sense will be a matter of fact and planning judgment for the decision-maker in the particular circumstances of the case in hand”. (paragraph 31 of the judgement).

- 6.29 The site is located next to the urban confines of Tonbridge and the proposed development would provide a spatial expansion of the existing urban area. The development confines of Tonbridge do not just terminate on the north side of Brook Street, at the eastern boundary of the site, they also encapsulate the existing residential area located opposite the site on the southern side of Brook Street. The site is also located a short distance from Tonbridge town centre itself, with the railway station a 10 minute walk away and the town centre supermarkets/shops a 15 minute walk away. Bus services run along Brook Street, and more are located on Quarry Hill Road. Therefore a whole range of shops/services would be located within close proximity and would be easily accessible from anyone living within the site. Therefore, from a spatial development perspective as well as connectivity to shops/services, the development would not provide isolated rural dwellings.

Character and pattern of development and impact upon visual amenities:

- 6.30 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.

- 6.31 In particular, paragraph 126 states:

“The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”

- 6.32 Paragraph 130 seeks to ensure that development will function well, be sympathetic to local character, establish a strong sense of place and create attractive, safe places in which to live, work and visit. Furthermore, paragraph 134 sets out that permission should be refused for development that is not well

designed especially where it fails to reflect local design policies and government guidance on design.

- 6.33 In this case, bearing in mind that the site contains land that is specifically safeguarded for development, the Borough Council has accepted that a development within it will fit in with the prevailing pattern of development in the locality. The detailed layout, form and design of the built form and the proposed open spaces will all be matters that will be considered at the detailed design (Reserved Matters) stage. However, the size of the site, its location and the quantum of development proposed are such that a development could be designed to be compatible with the built form located nearby. The development has assessed the local context and will provide buildings no higher than 2 ½ storeys in height and seeks to retain as much of the existing boundary treatments within and adjoining the site (mixed hedgerows, protected and other trees) as possible. Additional boundary hedge/tree planting will also take place as well as landscaping within the site.
- 6.34 In accordance with the NPPF, developments have to make an efficient use of land but this has to be balanced against the need to ensure developments respect their locality. In this case the density of the developed portions of the site would be c.28dph which is compatible with that of the adjacent residential developments. (The development including Amberley Close and Copper Beech View to the east of the proposed development is approximately 30dph. The development on the southern side of Brook Street is approximately 26dph).
- 6.35 Assessing how a development would settle in with the existing built form in the locality is of course an important consideration. However, consideration also has to be given to the likely impacts upon the existing landscape given the site is currently open, undeveloped fields.
- 6.36 The site forms part of the larger regionally assessed character area known as the Medway Valley. It is quite typical of the undeveloped land located elsewhere within the Landscape Character Area but contains notable positive features of interest such as the area of ancient woodland, stand alone, protected oak trees, a group of Oak and Ash trees (protected by TPO) and hedgerows framing field boundaries. The character area also notes the detractors to the site which include the sports pitched and lighting to the west (Vizards) and the hard urban boundary with Tonbridge to the east including the Hayesbrook School and its pitch that adjoins the site. In landscape terms the site is assessed as having a medium landscape value, being quite typical of the wider landscape character area, not having a particular rarity value, limited conservation interest and not being accessible for recreation purposes.
- 6.37 In this context it is considered that the site in landscape terms has the ability to accept change providing it is well planned and designed. The development is such that less than half of its area would be developed with built form (less than

5ha). Therefore, much of the landscape would be left undeveloped and that which will, in the main, will be focused on the southern side of the site (outside the areas more at risk of flooding, away from the ancient woodland land protected trees). The development would be located generally closer towards the existing built environment (the school and houses to the east, the road to the south and the school's playing pitches to the west, with the associated flood lighting). How the developed portions of the site would be laid out will be a key issue, but the landscape strategy shows the retention of much of the existing hedgerows and all of the protected trees within the site. I consider that, in overall landscape terms, the development would result in a slight adverse impact upon the landscape, principally because it would extend the existing urban area of Tonbridge into what is currently undeveloped farmland. That impact would have to be weighed in the balance with all other harms and benefits arising from the scheme.

- 6.38 In terms of visual harm, this differs from that to landscape as it concerns more how particular receptors would be impacted by the development. For example local residential properties that would have views over the development are likely to be quite sensitive to the change arising from the development. Road users would be less sensitive to change owing to how they would perceive the site whilst driving past it. Other visual receptors would include users of Haysden Country Park, people walking along the local PROW network, and rail users.
- 6.39 Existing residents with views across the site would see the changes to the character of the site the most. However, the retention of key landscaping features such as the protected trees, ancient woodland, hedgerows and the provision of a well thought out layout and landscaping scheme will help to reduce the impact upon these receptors in time.
- 6.40 There are no PROWs within the site. The one nearest to the site is footpath MU29 that runs between the western boundary of Amberley Close and Hayesbrook School. The footpath runs north across the railway to the Barden Road area of the town. Any users of this footpath would be sensitive to the proposed change in the character of the site given the surrounding land uses. To the west of the site PROW MU48 runs along the access to Haysden Country Park and joins up with other footpaths located to the north of the railway which run broadly east west, following the route of the river Medway into Tonbridge or the Leigh Barrier. Due to the location of these footpath away from the site, the intervening land uses including the country park itself, the vizards sports facility and the raised railway embankment, the sensitivity of these visual receptors will be low and unlikely to be adversely affected by the proposed development.
- 6.41 To the south of Lower Haysden Lane views from PROW WT61 towards the site are largely screened by the relatively level topography of the land and intervening vegetation. Further south views are obscured by the elevated A21.

Further south still the land rises up to the Bidborough Ridge (High Weald AONB) and the site is only visible from a limited number of places, due to the intervening woodland cover. From Bidborough Ridge itself, views of the site are again limited by the intervening trees/woodland/hedgerows and dwellings. Any views from this distance will also be in the context of the existing urban area as well.

- 6.42 The site therefore is considered to be visually well contained with views of the proposed development limited mainly to immediate neighbouring properties and around the junction of Lower Haysden lane and Brook Street. The mitigation strategy is to retain as many of the existing trees and hedgerows as possible and indeed additional landscaping will help to soften the impact of the development in years to come.

Highway safety, capacity and parking provision:

- 6.43 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.

- 6.44 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.

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

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

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

- 6.45 Concerning national planning policy, this has been updated in the latest iteration of the NPPF. Paragraph 110 states:

“ In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

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

b) safe and suitable access to the site can be achieved for all users;

c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and

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

6.46 Paragraph 111 states:

“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.”

6.47 Paragraph 112 goes on to state that within this context, applications for development should:

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

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

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

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

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

6.48 The applicant has provided a Transport Assessment (TA) with updated notes following responses from the highway authorities and following the change to the description of the development which removed the provision of a primary school from the development.

6.49 Since the time of the original submission in 2019, Highways England has requested additional pieces of technical information to be provided before

committing to an opinion concerning the likely effects upon the strategic road network (SRN) of the proposed development. Following the receipt of further information it has now concluded that the proposals will not materially affect the safety, reliability and/or operation of the SRN.

- 6.50 Concerning the local road network, there have been several reviews of the initial Transport Assessment resulting in subsequent technical notes/updates being submitted for consideration. The development will impact upon the local road network and it is acknowledged that several key local junctions between the site and Tonbridge town centre are already at or near capacity which will worsen over time with natural growth alone (setting aside the impacts of the proposed development).
- 6.51 Initially, when the application was received in January 2019, it was at a time when the draft local plan had been submitted and so the TA took into account the likely impacts arising from the then planned wider allocation of over 400 dwellings within the south west Tonbridge area. Now that the local plan has been withdrawn there is no requirement for the cumulative impacts of the wider allocation to be considered when assessing the transportation impacts associated with the current proposal.
- 6.52 It is apparent that whilst the local highway network is already under pressure, the part that would be most affected by the proposed development is the junction of Brook Street and Quarry Hill Road. During the two peak hours it is predicted that an additional 61 vehicles would use the Brook Street arm of this junction. This is forecast to result in delays of over 2 minutes at this junction for drivers and a potential queue during the AM peak of 29 vehicles. It should be clarified that the predicted queue of 29 additional vehicles is not a certainty as the 60 additional vehicles movements during the peak hour could be spread out or clustered together. The TA has also assumed that all of the dwellings would be market housing whereas 40% would indeed be affordable, which as KCC Highways notes normally results in less car ownership than market housing. Therefore, the predicted impact up the Brook Street roundabout is considered to be a robust and worst-case scenario.
- 6.53 Given the predicted impacts upon this junction, it has been explored whether it can be physically improved to mitigate the additional impacts arising from the proposed development. However, no scheme has come forward that the Highway authority considers would in reality mitigate the impacts arising from the proposed development. Consequently, a different approach to mitigation has been explored that would focus more on sustainable transport measures designed to encourage people not to use the private motor car given the close proximity of the site to Tonbridge town centre and alternate transport choices.
- 6.54 A route has been agreed between the local highway authority and the applicant to provide a cycle way between the Brook Street roundabout and Tonbridge

Railway Station along Waterloo Road. The applicant has agreed to enter into a s106 agreement to make the necessary payment to the highway authority to provide the cycle way as it will be on highway land. The highway authority would prefer the applicant to provide the cycle lane under a s278 agreement. Whilst this is noted, making a s106 contribution to the highway authority instead would be an acceptable way of providing this mitigation and would meet the relevant tests contained within s123 of the CIL Regulations. Of course in order to enable the provision of the cycle way at the earliest opportunity the payment will need to be made also at the earliest time. As such the applicant has agreed to make the payment prior to commencement of the development.

- 6.55 In addition to the cycle way, the applicant will provide a green travel voucher to each of the households upon first occupation that can be used to purchase equipment to facilitate cycle or walking to and from the site. The details of the voucher will need to be approved as part of the Travel Plan which itself will aim to reduce car dependency by 10%. A condition is recommended to ensure that appropriate measures are contained within a Travel Plan for this site.
- 6.56 The Highway authority has recommended that as part of the focus on sustainable transport measures, a contribution is made to enhance the local bus service. There are, of course, plans as part of this this development to enhance the bus stop on Brook Street outside the application site and an enhancement to the local bus services themselves will be beneficial to all future residents of this development. The necessary contribution can be secured though a s106 planning obligation.
- 6.57 The development would also provide an extension of the existing public footpath along Brook Street towards Haysden Country Park. This would run along the southern side of the site parallel to Lower Haysden Lane and would terminate at the western boundary of the site (adjoining the Vizards playfields owned by Judd School). Members would have seen the existing footpath route running along the site which is for use only by pupils and staff of the Judd School to access its playing facilities on foot. Whilst the footpath would terminate short of Haysden Country Park, I would none the less extend the length of footpath from Tonbridge towards the country park. I understand that the Judd school is considering allowing access through its playfields site to Haysden Country Park. Whilst this would be a matter entirely outside of the planning system and not for consideration as part of this application, it is encouraging to know that different third parties are considering improving the footpath linkages in this area to enable pedestrian access to a well-used community facility.
- 6.58 All of these measures would help to mitigate the transport impacts of the development by improving the quality of alternative means of transport to residents of the development, other than the private motor car. Reducing the amount of car usage by future residents would of course, result in a lesser

impact upon the Brook Street roundabout arising from the development. In conclusion, the provision of these mitigation measures would result in the development not causing an unacceptable or cumulative severe impact upon highway safety and therefore complies with the NPPF and policy SQ 8.

Ecology:

- 6.59 As is expected for a site of this size, location and composition, it provides different habitats that have the potential to support different types of fauna. The hedgerows provide a habitat for Hazel dormouse as well as some nesting birds; the individual trees and wooded area in the south east corner of the site provide habitats for breeding birds and bats. The grassland within the site also provides some habitat for reptiles.
- 6.60 The Ecological surveys undertaken on behalf of the applicant have revealed that dormice, 3 species of reptile, 9 species of foraging bats and 23 species of birds were recorded within the site. With regards to habitats the existing grassland will be affected as approx. 4ha of the site would be developed with the proposed residential parcels and the infrastructure serving them. The Environmental Statement (ES) acknowledges that as this habitat will be lost suitable compensation will be required of an equivalent or better quality. To this end areas of better quality grassland, water meadow and habitat suitable for reptiles will be created within the larger, undeveloped areas of the site.
- 6.61 The ES also acknowledges that sections of the existing hedgerows, most notably located within the south eastern section of the site, would be removed for the development. These are principally located in the section of the site where the revised access arrangements are to be located, although one of the sections of hedgerow shown to be removed is located in the eastern most development parcel. However, as with the grassland, the ES also accepts that suitable compensation is required were these sections of habitat be removed and, a such proposals that suitable replacement hedgerows can be planted along the north and western boundaries of the site compensate for these removed.
- 6.62 The KWT has objected to the development on the basis that it will put additional pressure on local wildlife sites (and rare species using them) including Haysden Country Park from additional recreation users. Given the close proximity of the site to the park, it is likely to be a destination for future residents and of course the wider footpath network as well. The KWT considers that contributions should be secured from the applicant to mitigate impacts upon the country park itself. In accordance with policy OS 3 of the MDE DPD, contributions are indeed being secured via a s106 agreement for enhancement of the Haysden Country Park.

- 6.63 All trees that have been identified as being suitable habitats for bat roosts would be retained on site. Only one category B grade tree is shown for removal within the site, a multi-stemmed Field Maple located on the south east corner of the site. This lies close to but outside of the woodland group protected by the TPO that applies to the site. Whilst this is a category B tree, due to its lower amenity value and separation from the protected group it was not considered worthy of specific protection. The scheme illustrates that much tree planting will occur within and around the developed portions of the site, thereby offering new habitats for wildlife in time.
- 6.64 In conclusion, it is considered that whilst some of the existing habitats will be lost to the development (notably some hedgerows and grassland), suitable compensation will be provided within the site itself. It must not be forgotten that much of the site is land safeguarded for development within the current development plan and, as such, there is an acceptance that the habitats within the site will be affected to a degree. In this particular case, due to the large areas of land that are not proposed to be developed under this proposal, there is much scope to enhance the habitats in those areas to compensate for the habitats lost to the built development. A condition is recommended that will require specific details of the proposed ecological mitigation/compensation measures to be provided. I would also suggest the use of an information to encourage the retention of as much of the existing hedgerow habitat as possible when formulating the final layout of the proposed development.

Best and most versatile agricultural land:

- 6.65 Policy CP9 of the TMBCS states that development of the best and most versatile land (DEFRA Grades 1, 2 and 3a) will not be proposed in the LDF unless there is an overriding need, and
- (a) there is no suitable site in a sustainable location on land of poorer agricultural quality; or
- (b) alternative sites have greater value for their landscape, biodiversity, amenity, heritage or natural resources or are subject to other constraints such as flooding.
- 6.66 Paragraph 174 of the NPPF requires planning policies and decisions to contribute to and enhance the natural and local environment. In particular section b) requires the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services to be recognised – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.
- 6.67 Whilst I appreciate that policy CP9 relates to the allocation of sites rather than decision making, this policy when considered in conjunction with paragraph 174

(b) of the NPPF makes it clear that there is a need to balance the need for additional housing with the loss of agricultural land.

- 6.68 The site is classified as grade 2 which is typical of the surrounding area. Grades 1, 2 and 3a are referred to as 'best and most versatile' land. It is recognised that the site comprises the best and most versatile agricultural land, although it is a relatively small area (approx. 10 ha) in size. It is confined on all four sides by a railway line to the north, built development to the east, Lower Haysden Lane/Brook Street to the south and the Vizards sports pitches to the west. Furthermore, the site is currently safeguarded for development post 2021 so the LPA already considers the loss of this amount of agricultural land to be acceptable. Therefore, it is considered that the loss of this relatively small parcel of agricultural land would have little tangible impact on agricultural yield. Furthermore, the land itself is not currently being actively used for agricultural purposes.

Minerals:

- 6.69 The development would be undertaken on land that is not safeguarded within the Kent Mineral and Waste Local Plan for mineral extraction.

Renewable technologies and climate change strategy:

- 6.70 The Council's climate change strategy covers the period 2020-2030 and applies to all aspects of the Council's business, not just planning. It states quite clearly that where the local plan is silent on a specific issue, the NPPF and the climate change strategy will remain material planning considerations to be considered when determining planning applications. Whilst the current adopted development plan policies relating to climate change and renewables are largely out of date now, the NPPF provides clear policy guidance.
- 6.71 Paragraph 154 states that new development should be planned for in ways that:
- “can help to reduce greenhouse gas emissions, such as through its location, orientation and design. Any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards.”*
- 6.72 Paragraph 157 states:
- “In determining planning applications, local planning authorities should expect new development to:*
- a) comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and*

b) take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.”

- 6.73 As has been outlined in the transport section of this report, the development will make contributions to improve the bus services in the locality and result in the provision of a new cycle lane along Waterloo Road. Green travel vouchers will also be provided to the first occupiers of the development as part of the travel plan. The development will, therefore, maximise opportunities for sustainable travel. EV charging points will be installed with all houses with independent car parking and provision will also be made for EV charging points where it is not.
- 6.74 The site itself is, as has already been mentioned earlier in this report, considered to be located in a sustainable location. Whilst it lies outside the confines of the town itself, due to the particular characteristics of the town, the railway station lies a 10 minute walk from the application site and the town centre supermarkets, shops and services are a 15 minute walk away. Bus services are also easily accessible from the site. From a location point of view, the site is considered to be sustainable and help to reduce green-house gas emissions by being well located to shops and services, which would be accessible by means other than the private motor car. The planned new cycle lane between Brook Street and the railway station will serve only to improve the attractiveness of the cycle journey between the site and the town centre.
- 6.75 As has been reported in the ecology section, the development has the ability to enhance the bio-diversity of the existing pasture land within the site and create/improve the existing wildlife habitats within it.
- 6.76 Matters such as passive solar gain and the use of renewable technology will be considered at the detailed design stage of the development. However, a condition can be used to ensure that such matters are submitted as part of those details and designed into the scheme from day one.
- 6.77 On this basis, I can conclude that the proposed development meets the national and Council requirements in terms of climate change and renewable technologies.

Contaminated Land:

- 6.78 Paragraph 183 of the NPPF states that planning policies and decisions should ensure that:
- “a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);

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

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

6.79 Paragraph 184 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.

6.80 The site has not been previously developed, although it has been used for agricultural purposes where chemicals could have been used in the past. However, this would not preclude the site from being suitable for the proposed end use. Whilst there is a low likelihood of the land being contaminated, I would suggest the use of a condition that should unforeseen contamination be found during the course of construction, works cease until a mitigation strategy has been approved by the Borough Council and undertaken as part of the development.

Air Quality:

6.81 Paragraph 186 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.

6.82 The site lies outside of any AQMAs with the nearest one being located at the south end of the High Street, between its junction with Vale Road and The Botany.

6.83 An air quality assessment has been submitted as part of the ES which concludes that the proposed development would have a negligible effect both during the construction and operational phases of the development. This is based on certain mitigation measures being adopted including the control of dust and pollutants during the construction phase which can be secured by condition (requiring a construction management plan) and, during the operational phase, the use of energy efficient boilers, a travel plan to encourage

sustainable modes of travel and the provision of EV charging points for the proposed dwellings. The first of these measures would be secured under the Building Regulations, and the other points can be controlled by conditions attached to a planning permission. The Environmental Health section has reviewed the assessment and raises no objections.

- 6.84 In line with the conclusions of the submitted Air Quality Assessment and the assessment of the Council's own expert, I am satisfied that the air quality effects of the development would not be significant. The development therefore accords with paragraph 186 of the NPPF.

Noise:

- 6.85 Paragraph 185 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.
- 6.86 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 offers advice on the attenuation measures that could be implemented to secure an acceptable environment.
- 6.87 It is considered that appropriate internal and external noise levels can be achieved for the proposed development although some appropriate noise mitigation measures will be required but this will be dependent upon the final overall site layout. A condition can added to ensure that the necessary noise mitigation/attenuation measures are incorporated into the development. The proposal therefore accords with paragraph 180 of the NPPF.

Archaeology:

- 6.88 Part of the land within the application site lies within an area of archaeological potential. The application submission considers that there is unlikely to be a significant impact upon archaeology, which KCC Heritage agrees with. Notwithstanding the likely lack of significant archaeological deposits within the site, given its size, KCC considers that further archaeological assessment should be undertaken to establish what, if any, archaeological remains may be present beneath the site. KCC has recommended the use of two separate conditions, should the LPA be minded to grant permission, to ensure that a proper assessment is undertaken prior to the commencement of the development. I am satisfied that this approach is reasonable and proportionate in the particular circumstances of this case.

Planning obligations:

- 6.89 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.
- 6.90 Paragraph 57 of the NPPF reflects this statutory requirement.
- 6.91 The scheme proposes to provide 40% of the total number of dwellings as affordable housing, which would be 50 residential units. The scheme therefore accords with Policy CP17 of the TMBCS. The approval of the specific size, type and tenure of affordable housing and implementation of the provision will be secured under a S106 agreement to ensure that the provision comes forward in a manner that reflects and meets local need.
- 6.92 Policy OS3 of the MDE DPD required all developments of 5 units or more (net) to provide an open space provision in line with Policy Annex OS3. The policy sets out that, where possible to do so, open space should be provided on-site. The indicative plans show that the development would incorporate children's play areas, amenity green space and areas of natural and semi-natural green space. After taking this on-site provision into account, financial contributions will be secured through a s.106 obligation for the enhancement of Haysden Country Park and the enhancement of outdoor sports facilities in the locality as well.
- 6.93 The applicant is proposing to provide a new cycle lane from the Brook Street roundabout, along the east side of Waterloo Road. This could either be provided by the applicant under a s.278 agreement, in agreement with and as requested by the Highway Authority, or by KCC as local highway authority directly, following a contribution being made to it by the applicant. The latter is being proposed by the applicant. In planning terms, either mechanism would be appropriate to secure this improvement to cycle infrastructure within the town and the applicant has agreed to make the necessary payment prior to the commencement of the development, an early trigger point in order that the infrastructure can be provided without undue delay.
- 6.94 With regard to education provision, it has been established with KCC as the relevant education authority that whilst the development will create a demand for additional primary school places, there is presently sufficient capacity to accommodate the demands generated by the development. As such no

contributions for primary education enhancement can be sought in respect of this development.

- 6.95 Concerning secondary schools, the development again generates a need for additional school places and there is not sufficient capacity within the existing schools to accommodate these pupils. As such a contribution of will be secured via a 106 agreement for enhancement of the Judd School.
- 6.96 The proposed development will also impact upon community facilities in the locality as well and, as such, contributions will be secured through a s106 agreement for the enhance of Tonbridge Adult Education Centre, Tonbridge Library, South Tonbridge Children's Centre and the Angel Centre Changing Places facility. The final sum of the contributions is not known at this stage as some of them are dependant on the mix of houses/flats within the scheme and the figures submitted by KCC date from 2019 and will need updating to reflect current requirements/values.
- 6.97 All of the contributions sought meet the tests of paragraph 122 of the CIL Regs as well as paragraph 57 of the NPPF.

Planning balance and overall conclusions:

- 6.98 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.
- 6.99 I accept that the proposal would bring about significant benefits associated with the provision of 125 new dwellings and the inclusion of 40% affordable housing is also a significant benefit of the development. Significant weight must be given to these benefits
- 6.100 There will also be the inevitable economic benefits arising from the construction of the development which attracts moderate weight. The inclusion of measures to encourage sustainable transport choices (the cycle lane, contributions to enhance bus provision, Travel Plan and the green voucher) would also count as benefits of the scheme attracting weight.
- 6.101 It is considered that there would be slight adverse impacts arising from the development upon the landscape and some local receptors would see the change from undeveloped fields to a residential development on the southern side of the site.
- 6.102 Whilst it is proposed to encourage residents of the scheme to make sustainable transport choices, the planning system cannot make people do that. The Transport Assessment predicts that, as a worst case scenario, additional

queuing will occur at the Brook Street roundabout in both of the peak hours and this, of course, would be a negative impact of the development.

- 6.103 On balance, it is my judgement that these adverse impacts do not significantly and demonstrably outweigh the benefits of granting planning permission on this occasion. 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: Plan 10246-HL-01C dated 04.01.2020, Location Plan 215 - P - 00 - A dated 04.01.2020, Report Geo-Environmental Parts 1&2 dated 04.01.2020, Statement Affordable Housing dated 04.01.2020, Planning Statement 181221 dated 04.01.2020, Environmental Statement 181221 Non Technical dated 04.01.2020, Environmental Statement Main Text dated 04.01.2020, Statement Community Involvement dated 04.01.2020, Environmental Assessment APPENDIX 1.1 Screening dated 04.01.2020, Environmental Assessment APPENDIX 1.2 Screening Option 4 dated 04.01.2020, Environmental Assessment APPENDIX 10.1 GLOSSARY dated 04.01.2020, Air Quality Assessment APPENDIX 10.2 dated 04.01.2020, Report APPENDIX 10.3 MODEL INPUT PARAMETERS dated 04.01.2020, Report APPENDIX 10.4 MODEL VERIFICATION dated 04.01.2020, Report APPENDIX 7.1 LEGISLATION AND PLANNING PO... dated 04.01.2020, Report APPENDIX 7.11 BADGEaRS dated 04.01.2020, Report APPENDIX 7.2 HABITATS AND BOTANY dated 04.01.2020, Report APPENDIX 7.3 BATS dated 04.01.2020, Report APPENDIX 7.4 HAZEL DORMOUSE dated 04.01.2020, Report APPENDIX 7.5 REPTILES dated 04.01.2020, Report APPENDIX 7.6 GREAT CRESTED NEWTS dated 04.01.2020, Report APPENDIX 7.7 WATER VOLE dated 04.01.2020, Report APPENDIX 7.8 WINTERING BIRDS dated 04.01.2020, Letter dated 02.04.2020, Environmental Assessment Chapter 9 Revised dated 28.01.2020, Transport Assessment Amended dated 28.01.2020, Letter ADDITIONAL INFORMATION dated 04.06.2021, Other DESIGNERS RESPONSE TO STAGE 1 RSA OPTION 1 dated 04.06.2021, Drawing 10246-SK-05 REV C dated 04.06.2021, Report APPENDIX 7.9 WINTERING BIRDS dated 04.01.2020, Plan FIGURE 1.2 DEVELOPMENT FRAMEWORK PLAN dated 04.01.2020, Report FIGURE 10.1 SENSITIVE RECEPTORS dated 04.01.2020, Report FIGURE 10.2 TONBRIDGE AQMA dated 04.01.2020, Report FIGURE 10.3 WIND ROSE FOR GATWICK AIRPOR... dated 04.01.2020, Report FIGURE 8.9-8.23 VIEWPOINT PHOTOS dated 04.01.2020, Report FIGURE7.1_SITELOCDESIG dated 04.01.2020, Report FIGURE7.10A_BADGERS2014 dated 04.01.2020, Report FIGURE7.10B_BADGERS2015 dated 04.01.2020, Report

FIGURE7.2A_PSR_BATS dated 04.01.2020, Report
FIGURE7.2B_PSR_MAMMALS dated 04.01.2020, Report
FIGURE7.2C_PSR_HERPS dated 04.01.2020, Report
FIGURE7.2D_PSR_BIRDS dated 04.01.2020, Report
FIGURE7.3_HABITATSFEATURES dated 04.01.2020, Report
FIGURE7.4A_TREESURVEY dated 04.01.2020, Report
FIGURE7.4B_MAYSURVEY dated 04.01.2020, Report
FIGURE7.4C_JUNESURVEY dated 04.01.2020, Report
FIGURE7.4D_AUGUSTSURVEY dated 04.01.2020, Report
FIGURE7.4E_APRIL_MAY_2018 dated 04.01.2020, Report
FIGURE7.5_DORMOUSERESULTS dated 04.01.2020, Report
FIGURE7.6A_REPTILEREFUGIA dated 04.01.2020, Report
FIGURE7.6B_REPTILERESULTS_P1354 dated 04.01.2020,

Subject to:

- The applicant entering into a s106 planning obligation with the Borough Council to make contributions for the enhancement of existing open spaces and NHS facilities in the locality
- The applicant entering into a s106 planning obligation with Kent County Council to make contributions towards the enhancement of secondary school accommodation and community facilities within the locality, as well as for the provision of a cycle lane along Waterloo Road.
- 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 one year 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 two years from the date of this permission, or before the expiration of 1 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 general conformity with the design principles described in the Design and Access Statement and the following plans:

215-P-01 Rev H - Illustrative Landscape Masterplan
215-P-03 Rev C – Development Framework Plan
10246-HL-01 – Proposed Access Arrangement

Reason: In the interests of the amenity of the locality and to ensure continuity with the approved development principles

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. No development shall commence in any phase until a Construction Environmental Management Plan detailing how the woodland, habitats and hedgerows within and surrounding the site will be protected during the construction phase. This shall also include details of appropriate fencing to restrict access into key ecological areas, information on any timing restrictions and measures to prevent damage to sensitive ecological habitats. The development shall be carried out in accordance with the approved Management Plan.

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

7. Prior to the commencement of the development in any phase hereby approved, arrangements for the management of all construction works for that particular phase 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:

o The days of the week and hours of the day when the construction works will be limited to and measured to ensure these are adhered to;

o 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;

o Procedures for notifying local residents 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

o 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 order that the development is managed in a way to minimise harm to the amenities of local residents.

8. None of the dwellings within any phase of the development shall be occupied until the following works have been undertaken under a s278 agreement between the developer and the local highway authority:

o Improvement to the junction of Brook Street/Lower Haysden Lane/site access in accordance with the approved plans.

Reason: In order to ensure the local highway network can adequately accommodate the traffic generated by the development hereby approved.

9. The details submitted in pursuance of Condition 1 shall show land, reserved for parking. None of the buildings shall be occupied until this area has 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 or in such a position as to preclude vehicular access to reserved vehicle parking area.

Reason: Development without provision of adequate accommodation for the parking or garaging of vehicles is likely to lead to hazardous on-street parking

10. None of the dwellings hereby approved shall be occupied until a Travel Plan, to reduce dependency on the private car, has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include objectives and modal-split targets, a programme of implementation and provision for monitoring, review and improvement. Thereafter, the Travel Plan shall be put into action and adhered to throughout the life of the development, or that of the Travel Plan itself, whichever is the shorter.

Reason: In order to reduce dependency upon the private motor car in the interest of highway safety.

11. None of the dwellings shall be occupied until details of a scheme to install electric vehicle charging points within the development has been submitted to and approved by the Local Planning Authority. The work shall be carried out in strict accordance with those details prior to the occupation of any of the dwellings within the site.

Reason: In order to encourage the occupation of the dwellings by people using electric vehicles to help reduce vehicle emissions in the interests of air quality and in accordance with paragraph 112 of the National Planning Policy Framework 2021.

12. No dwellings shall be occupied until details of secure cycle storage provision for all of the proposed dwellings have been submitted to and approved in writing by the Local Planning Authority. The approved cycle storage facilities shall be provided prior to the occupation of the dwellings they would serve and retained at all times thereafter.

Reason: In order to facilitate sustainable transport choices for the residents of the development, in the interests of highway safety and in accordance with paragraph 112 of the National Planning Policy Framework 2021.

13. Prior to or as part of the first submission pursuant to condition 1, a scheme detailing the layout of roads, footpaths, other means of access, communal car parking, the lighting and the drainage of those areas 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.

14. No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the local planning authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details.

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

15. Prior to the commencement of the development in any phase details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority and the development will be undertaken in accordance with the approved details.

Reason: The National Planning Policy Framework paragraph 183 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from or being adversely affected by unacceptable levels of water pollution.

16. No development shall take place until the details required by Condition 1 shall demonstrate that requirements for surface water drainage for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm can be accommodated within the proposed development layout.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and that they are incorporated into the proposed layouts.

17. 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 Flood Risk Assessment dated 14th August 2020 prepared by Brookbanks Consulting 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 without increase to flood risk on or off-site.

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

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

o 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. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

18. 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.

19. As part of or no later than at the submission of the Reserved Matters, details of the proposed ecological enhancement/mitigation measures shall be submitted to the Local Planning Authority and the measures shall be undertaken in accordance with the details so approved prior to the occupation of any of the houses within the development.

Reason: In the interests of the ecological interest of the site.

20. No dwellings shall be occupied until full details of the open space to be provided on site (including amenity space, children's play areas and natural green spaces) within the development along with a timetable for provision and a scheme for future management of the spaces have been submitted to and approved in writing by the Local Planning Authority. The details shall include any fencing and equipment to be installed. The approved scheme shall be fully implemented in accordance with the timescale approved and shall be maintained and retained at all times thereafter.

Reason: To ensure that the development is appropriately served by open space in accordance with the requirements of policy OS3 of the Tonbridge and Malling Borough Managing Development and the Environment DPD 2010.

21. None of the dwellings within any phase of the development shall be occupied until the necessary noise mitigation measures have been incorporated into those dwellings, their curtilages or the wider site, the details of which have first been submitted to and approved by the Local planning Authority.

Reason: In order to provide an acceptable aural environment for the residential properties.

22. No development on any new building shall commence until detailed topographical plans and cross-section drawings of the site showing the proposed changes to the ground levels within the site in relation to the existing levels of the site and adjoining land have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in strict accordance with the approved details.

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

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

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

24. No development shall take place above ground on any of the dwellings hereby approved until details of all materials to be used externally have been approved by the Local Planning Authority. In order to seek such approval, written details and photographs of the materials (preferably in digital format) shall be submitted to the Local Planning Authority and samples of the materials shall be made available at the site for inspection by Officers 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 harm the character and appearance of the existing building or the visual amenity of the locality in accordance with policy CP 24 of the Tonbridge and Malling Core Strategy 2007.

25. The details submitted in pursuance of condition 1 shall be accompanied by a scheme of landscaping and boundary treatment which shall include a tree survey specifying the position, height, spread and species of all trees on the site, provision for the retention and protection of existing trees and shrubs and a date for completion of any new planting and boundary treatment. The scheme as approved by the Authority shall be implemented by the approved date or such other date as may be agreed in writing by the Authority. 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, unless the Authority gives written consent to any variation.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality.

26. No works shall commence above ground on any dwelling until a scheme that demonstrates how the dwellings will be designed to reduce energy demands and which shows where renewable technologies will be employed within the development have first been submitted to and approved in writing by the Local Planning Authority. The development will be carried out in accordance with the approved details.

Reason: In the interest of reducing the energy demands of the development in accordance with paragraphs 112, 154 and 157 of the National Planning Policy Framework 2021 and the Borough Council's Climate Change Strategy.

27. No above ground development shall take place within any phase until details of the refuse storage facilities for that phase have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.

Reason: To ensure that the development does not harm the character and appearance of the existing building or the visual amenity of the locality in accordance with policy CP 24 of the Tonbridge and Malling Core Strategy 2007.

28. Prior to the commencement of development the applicant, or their agents or successors in title, will secure and implement:

i geo-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 further geo-archaeological investigation, recording and reporting, determined by the results of the evaluation, 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 Palaeolithic archaeological interest are properly examined and recorded.

29. Prior to the commencement of development the applicant, or their agents or successors in title, will secure and implement:

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 further archaeological investigation, recording and reporting, determined by the results of the evaluation, 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.

30. (a) If during development, significant deposits of made ground or indicators of potential contamination are discovered, the work shall cease until an investigation/remediation strategy has been agreed with the Local Planning Authority and it shall thereafter be implemented by the developer.

(b) Any soils and other materials taken for disposal should be in accordance with the requirements of the Waste Management, Duty of Care Regulations. Any soil brought onsite should be clean and a soil chemical analysis shall be provided to verify imported soils are suitable for the proposed end use.

(c) A closure report shall be submitted by the developer relating to (a) and (b) above and other relevant issues and responses such as any pollution incident during the development.

Reason: In the interests of amenity and public safety.

Informatives

- 1 The Borough Council will need to create new street name(s) for this development together with a new street numbering scheme. To discuss the arrangements for the allocation of new street names and numbers you are asked to write to Street Naming & Numbering, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or to e-mail to addresses@tmbc.gov.uk. To avoid difficulties, for first occupiers, you are advised to do this as soon as possible and, in any event, not less than one month before the new properties are ready for occupation.
- 2 The Borough Council believes that there is an opportunity to create areas of native planting in this development. Plants for such areas should not only be of native species but also of local provenance. The use of plants of non-local provenance could harm the environment by introducing genetically alien material and reducing the variety and viability of other wildlife that the particular plant supports.
- 3 With regard to condition 19, the applicant is advised to plan the layout of the built development in such a way to minimise the loss of existing hedgerows and trees within the site.
- 4 You are also advised that, in undertaking the works hereby approved, due regard should be had to the provisions of the Wildlife and Countryside Act 1981 relating to the protection of species and habitats. The applicant is recommended to seek further advice from the Natural England, Temple Quay House, 2 The Square, Bristol, BS1 6EB.

Contact: Matthew Broome