

**Kings Hill**  
Kings Hill

**29 March 2021**

**TM/21/00881/OA**

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Proposal: Outline Application: Development of up to 65 dwellings (all matters reserved other than access)  
Location: MOD Land South of Discovery Drive Kings Hill West Malling Kent  
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**1. Description:**

- 1.1 Outline planning permission, with all matters reserved for future considerations with the exception of access is sought for the following development.
- Residential development of up to 65 dwellings/units
  - Target of 40% affordable housing (subject to viability) including first homes and a policy compliant tenure and dwelling mix
  - Designated on-site Childrens playspace (subject final location on site)
  - Ecological enhancements and adherence to 10% biodiversity net gain on site or off-site via biodiversity mitigation to enhance cumulative high ecology standards.
  - Enhanced Landscaping, sustainable drainage systems and protection of on-site species and adjacent ancient woodland
  - Footpath and cycle pathways within the site and connecting to adjacent Clearheart Lane.
  - Site accesses and associated highway improvements including enlarged passing points from Clearheart Lane to the site.
- 1.2 As the application is in outline form essentially this report is dealing with the principle of the development with all details, except for the general quantum of development and the means of access reserved for future consideration and subject to approval of the outline planning application, subsequent planning applications.
- 1.3 Whilst all matters are reserved (except access) ecology and biodiversity considerations have been examined and assessed in greater detail and are expanded in greater detail in the committee report. Some of the submitted plans identify key development parameters against which future reserved matters applications will be considered against and as such they would constitute approved plans should consent be issued, whereas other plans are submitted

purely for informative purposes to illustrate how a scheme could be developed. These plans include the following,

1.4 The plans below shall form part of the approved plans.

Parameter Plan 1 - Extent of development (Ref CL-16410-01-005 Rev E)

Parameter Plan 2 - Heights (Ref CL 16410-01-007 Rev G)

Parameter Plan 4 - Landscape (Ref CL-16410-01-009 Rev H)

Proposed access (CL-16410-01 006 Rev G)

Site Access Arrangement (Ref R-19-0045-001 Rev B – Dated 20-05-20)

Site Plan (Ref CL 16410-01-001 Rev D)

1.5 The following plans are for informative purposes only:

Parameter Plan 3 – Density (Ref CL 16410-01 008 Ref G)

Illustrative Masterplan (Ref L16410/01-017 Rev B dated August 2022)

1.6 In addition to the approved and informative plans, accompanying reports have been submitted to support the application including the following relevant reports

Arboricultural Impact Assessment (Dated November 2021)

Archaeological Desk-Based Assessment (Dated 9th June 2020)

Bat Survey Report (Dated September 2022)

Ecological assessment (Dated September 2022)

FRA (28917-RP-SU-001 - Dated 8 march 2021)

PEA Preliminary ecological appraisal (Dated November 2018)

Transport Statement (Dated March 2021 prepared by Evoke)

Ecological assessment (Dated September 2022)

Sustainability Statement and Energy Strategy (Ref Dated March 2021 Ref 28917-RP-SU-001)

Phase 1 Contaminated Land & UXO Assessment (Dated 18/10/2023 – Ref 8917-HML-XX-XX-RP-U-870001)

- 1.7 Each report listed above provides an overview of the material matters of the relevant subject and has been assessed by specialist officers. Each report has a differing significance applied in regard to the final development scheme.

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

- 2.1 The outline planning application has been subject to significant interest from the local community and subject to a call in by Cllr Chris Brown (Dated April 2021).

**3. The Site:**

- 3.1 The site is a designated site known as F2 (f) (Kings Hill) in the development Land Allocations DPD (adopted April 2008). The following description was provided,

3.2 *Kings Hill - (65 dwellings), subject to: provision of affordable housing in accordance with Core Policy CP17(1); provision of on-site open playing space or a contribution to the provision or enhancement of open space provision elsewhere at Kings Hill; provision of footpaths, cycle and bridle routes linking with existing and/or proposed routes at Kings Hill; a contribution towards community and leisure facilities at Kings Hill; the retention of important trees on the site and a substantial woodland margin adjacent to the countryside to preserve the landscape setting and screen the development area; and any necessary mitigation measures identified as a result of an archaeological assessment*

- 3.3 The site is formed of an area of land located between Clearheart Lane to the north, Teston Road to the east and Ketrige Lane (Track) to the south. The site is undeveloped land with mature trees within the settlement confines of Kings Hill. Historically the site formed part of the airfield and evidence of hardstanding on site points to the previous use. Confirmed on the 5<sup>th</sup> of July 2021, three individual and seven groups of trees and one woodland area benefit from a Tree Preservation Orders (TPOs) designation. There are also ancient woodlands to the north, east and south of the site. The ancient woodland to the south of the site (known as Cattering Wood) covers a substantial area and designated as a local wildlife site.

- 3.4 Allotments and playing fields are located to the north-east of the boundary site. The principle Kings Hill urban development is located to the west of the site. The east side site boundary joins the Metropolitan Green Belt. The Wateringbury Conservation Area lies about 175m to the south.

- 3.5 The site falls within major ground water aquifer intermediate vulnerability zone and is located upon a principle aquifer. The site is also within the Archaeological Notification Area.

The site is a total of 3.2 hectares in area and is 213m away from the nearest public right of way (off Teston Road). The site is within Flood Zone 1 but it is within an aquifer designation bedrock (discussed further in the body of the report).

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

TM/10/03340/OA Application Withdrawn 30 March 2011

Outline Application for the provision of 64 dwellings (2, 3 and 4 bedroomed) with associated roads, footpaths, parking and landscaping, including the retention and management of associated woodland

TM/13/00697/TRD Application Not Proceeded With 13 March 2013

Coppice twin stem Chestnut close to boundary with 3 Bancroft Lane

TM/18/02950/FINF informal letter answered 22 February 2019

Residential development

TM/20/01401/OA Application Withdrawn 11 January 2021

Outline Application: development of up to 65 dwellings (all matters reserved other than access)

TM/21/00876/PPA 24 March 2021

PPA in relation to full planning permission for the development of up to 65 dwellings (all matters reserved other than access)

#### 5. Consultees:

- 5.1 Kings Hill Parish Council: objected on the following grounds:

- Strain on local services and infrastructure;
- Unacceptable harm to the character and appearance of the area and visual amenity;

- Unacceptable impact on the safety of the highway network;
- Harmful impact on the residential amenities of the occupants of properties along Clearheart Lane due to increase in vehicular movement and noise levels; and
- Adverse impact on the protected species.
- Loss of habitat and biodiversity
- Harm to the trees and woodland
- Lack of compliance with climate change strategy
- Negative impact on the tranquillity of the area

- 5.2 Teston Parish Council: Objected due to impact on the traffic movement (in particular the incorporation of the emergency access through to Ketrudge Lane). Requested permission to speak at the Planning Committee meeting.
- 5.3 Environment Agency: Following review of the submitted Phase 1 Contaminated Land & UXO Assessment and subject to planning conditions the EA have no objection to the outline application.
- 5.4 Kent Fire & Rescue Service: Considered the off-site access requirements of the Fire & Rescue Service have been met. Commented that on-site access is a requirement of the Building Regulations 2010 Volume 1 and 2 and must be complied with to the satisfaction of the Building Control Authority who will consult with the Fire and Rescue Service once a Building Regulations application has been submitted if required.
- 5.5 Waste Services: No details of refuse storage have been provided with the application. The refuse storage and servicing would form part of the reserved matters planning application.
- 5.6 Housing Services: Required 40% affordable housing provision (70/30 tenure split; 70% affordable homes for rent and 30% intermediate) and confirmation of the affordable housing provision including the tenure and property type and size mix. The provision should be reflective of the units across the development including a range of all the sizes and types of properties as outlined in the indicative mix.
- 5.7 Environmental Protection: Raised concerns that the applicant will need to consider the potential for noise from the sports pitches located to the north-east of the application site to affect the development. Recommended the following informative:

During the demolition and construction phases, the hours of noisy working (including deliveries) likely to affect nearby properties should be restricted to Monday to Friday 07:30 hours - 18:30 hours; Saturday 08:00 to 13:00 hours; with no such work on Sundays or Public Holidays.

Comments were also raised that due to the site once forming part of former West Malling Air Field that there is the possibility of contamination being present on site and therefore the standard contamination planning conditions should be imposed.

5.8 KCC Flood and Water Management: Raised no objection to the principle of the proposed development and recommended the following:

- Any detailed design work shall be based upon site specific infiltration testing results that reflect the proposed invert level of the drainage features. The infiltration tests should also be in accordance with published guidance such as BRE365:2016.
- Underground services, such as foul sewers, are routed outside of areas of permeable paving or cross it in dedicated service corridors, particularly where sewers will be offered for adoption.
- At the detailed design stage, the drainage system modelled using 2013 FeH rainfall data in any appropriate modelling or simulation software should be provided. Where 2013 FeH data is not available, 26.25mm should be manually input for the M5-60 value, as per the requirements of the latest KCC drainage and planning policy statement (June 2019).
- Conditions for details of surface water drainage should be imposed.

5.9 KCC Ecology: The ecological officer is satisfied with the ecological surveys which provide a reasonable understanding of the ecological interest of the site with an Ancient Woodland buffer of 15m proposed. AW buffer area should be provided between the proposed dwellings and gardens.

Broad recommendations for the biodiversity mitigation have been provided within the report but a detailed mitigation strategy has not been submitted to demonstrate that the outlined mitigation can be implemented nor does the submitted site plan clearly demonstrate that the onsite mitigation requirements will be carried out.

As part of the mitigation strategy the following is proposed:

- Phased clearance of vegetation within the site to avoid impacts on breeding birds and Dormouse
- Reptile translocation to the south of the site.
- Retention/enhancement of a 15m woodland buffer along the eastern boundary
- Retention/enhancement of the woodland to the north and south of the site

- Active management of the woodland to the south of the site
- Sensitive lighting strategy
- Creation of woodland habitat

Further details on the mitigation and on-site biodiversity are addressed in the relevant section of the committee report and the imposition of appropriate conditions.

5.10 KCC Highway – Raised no objection. Referred to the previous comments submitted for the previous application 20/01401/OA. In addition, that made the following comments:

- Swept path analysis demonstrating the suitability of the route for a fire appliance has also been provided.
- Provision of the emergency access also continues to meet KCC Highways access requirements as set out in the Kent Design Guide.

5.11 KCC Strategic Development and Place – the proposed development will have an additional impact on the delivery of its services, which will require mitigation either through the direct provision of infrastructure or the payment of an appropriate financial contribution. Distribution of financial contribution:

- Primary Education- £351,828.10
- Secondary education - £363,167.35
- Secondary Land - £311,088.95
- Special Education Needs - £36,388.95
- Community Learning - £2,223.65
- Integrated Children's Services - £4,813.25
- Library - £4,070.95
- Adult Social Care - £11,757.20
- Waste - £3,380.

5.12 Kent Police: Recommended a condition for Crime Prevention Through Environmental Design (CPTED) measures and referred to the Secured By Design (SBD) Homes 2019 initiative.

5.13 Woodland Trust: Objected due to the potential damage and deterioration of Cattering Wood, a designated ancient semi-natural woodland area, proximity of the proposed development to the ancient woodland and the proposed access

road through the buffer zone. The woodland trust recognise the implementation of a 15m buffer zone in line with the Natural England's advice is policy complaint. However, the Woodland Trust consider the buffer area is not a sufficient size for the proposed development and recommended a buffer zone of at least 30m and planting and screening of the buffer zone before the construction of the development. In particular, their concerns are:

- The impact of the increased recreational activity on vegetation and breeding birds,
- Noise, light and dust pollution during construction and use of the development
- The impact of the increased traffic and additional traffic emissions
- The impact of the quality and quantity of surface run-off water
- Development can be potential source for non-native and / or invasive plant species

5.14 Officer comment regarding the Woodlands Trust concerns. Officers note the retained objection but the development meets Natural England requirements and the 15 metre buffer zone would form part of a planning condition.

5.15 A site notice was displayed on the 13-04-21 and an advert was published in the Kent messenger on the 15-042021. A total of 1,464 surrounding addresses were notified by letter.

5.16 486 representations objecting to the application were received raising the following issues (summarised):

- The proposal would harm the nearby ancient woodland and habitats of protected species including adders, slow worms and bats.
- The proposal would result in loss of the green amenity space enjoyed by the locals and would be detrimental to the countryside character of the area and well being of the locals.
- The site is outside the established boundary of Kings Hill and functions as a landscape buffer which has been used for recreational purposes between the estate and the surrounding farmland.
- The proposal is not eco-friendly and would result in cramped form of development and an overdevelopment of the site.
- The proposed development would be out of character with the area and does not provide adequate open space.
- The proposal would harm the protected trees and replacement trees would not be enough to mitigate the net biodiversity gain resulting from the proposed development.



- Many of the trees which would be removed to allow the development are healthy.
- If the proposal is allowed, it would set a precedent for applications to develop the remaining natural spaces around Kings Hill.
- Impact on air quality
- Impact on traffic volume
- Noise and disturbance from the construction and potential structural damage to the nearby residential properties during the construction.
- The bridleway crosses the heart of the proposed construction access and movements of construction vehicles on this access could cause serious injury to the users of the bridleway.
- The widening of the road would result in the loss of the grass verge and trees.
- The existing shops and infrastructure including schools and health care facilities cannot support the proposed development.
- The proposed accesses are inadequate and the residential street is narrow.
- The proposed access over the bridle path is inappropriate and dangerous. The bridle path is used by the pedestrians, cyclists and horses.
- The additional emergency access and vehicular access would endanger traffic safety and the road infrastructure from Clearheart Lane does not support this application. Clearheart Lane is an already congested narrow road (unlike described in the Transport Statement as a generous carriageway). Increased traffic on Clearwater Lane will pose an increased safety risk to children walking to Discovery Primary School.
- The proposed emergency access is not suitable for the access of the emergency vehicles.
- The main access crosses the by-way used by pupils
- The proposed parking provision would not be adequate and there would be more strain on road parking.
- This area was not included in the initial Rouse master plan.
- The proposal would not benefit the local community and would disrupt the local amenity.
- The reasons for refusal in the appeal decision (ref: ref APP /H2265/A/00/1053813) are relevant to this application.

- The reasons for refusal in 2011 are still relevant (ref: 10/03340/OA).
- If permission is granted a buffer tree zone should be retained to allow a wildlife corridor and a large ragstone wall built to prevent any motorised access to Teston Road.
- The proposal poses a threat of surface water flooding.
- The proposal does not contribute to the carbon emission target.
- The proposal would result in loss of light, outlook/visual amenity and privacy to the neighbouring properties.
- The proposal is not being seen in the context of the other bordering developments.
- Bluebells cover this area and are protected under the Wildlife & Countryside Act 1981 and the landowner is prohibited from removing bluebells from this land;
- There would be light and noise pollution from the proposed development.

5.17 Officer comment - The content of the objections in many instances have been resolved and mitigated by the additional information submitted during the processing of this planning application, since the objections were lodged in 2021.

## **6. Policy Context:**

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). The stated housing land supply position as of 31 March 2022 is 3.22 years. This means that the presumption in favour of sustainable development as set out at paragraph 11 of the Framework (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, 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 Framework. The consequence of this in these circumstances are that consideration must be given to the extent of conformity between development plan policies and the policies contained within the Framework as a whole.

#### Policy toward Housing Development

- 6.3 Paragraph 60 of the NPPF sets out that, to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

- 6.4 The Council does not have an up-to-date local plan and cannot presently demonstrate a five year supply of housing. Consequently, in accordance with paragraph 11 d) of the NPPF, much of the adopted development plan is out of date for the purposes of determining applications for new housing development.

- 6.5 The site is adjacent to the Green Belt and ancient woodland, but these designations are not directly on the site and therefore the proposal must now be assessed on the policies within the Development Plan, where they accord with the NPPF, and this Framework as a whole. The site is a designated site in Policy H1 of the Development land Allocations DPD (April 2008) and this matter is to be attributed significant positive weight in the overall planning balance.

- 6.6 Core Strategy (adopted September 2007)

Policy CP1 Sustainable Development – whilst parts of this policy have diminished weight or no weight, the policy overall is still to be afforded weight in the determination of applications.

Policy CP2 Sustainable Transport – This policy is deemed to be consistent with the Framework and therefore afforded full weight.

Policy CP17 Affordable Housing – Generally consistent with the Framework and therefore capable of being afforded full weight.

Policy CP24 Achieving a High Quality Environment – This is to be read in conjunction with Section 12 of the NPPF (2023) Framework and considered to be afforded full weight still.

Policy CP25 Mitigation of Development Impacts - This is to be read in conjunction with paragraphs 55-58 and 199-208 of the NPPF (2023) Framework and considered to be afforded full weight.

6.7 Managing Development and the Environment Development Plan Document (DPD) (adopted April 2010)

Policy SQ1 Landscape and Townscape Protection and Enhancement

Policy CC3 Sustainable Drainage

Policy NE2 Habitat Networks

Policy NE3 Impact of Development on Biodiversity

Policy OS3 Open Space Standards

Policy OS4 Provision of Open Space

Policy NE4 Trees, hedgerows and woodland

Policy SQ1 Landscape and Townscape Protection and Enhancement

Policy SQ8 Road Safety

7. **Determining factors:**

Material considerations

- Principle of Residential development
- Access to site from Clearheart Lane
- Biodiversity impacts and mitigation
- Impacts on Ecology and trees.
- Assessment of Affordable Housing
- Land contamination
- Flood Risk and Sustainable Drainage

Matters Reserved

- Layout, design and massing
- Dwelling Mix

- Standard of accommodation
- Impact on neighbouring amenity
- Parking and Refuse
- Landscaping
- Energy efficiency and carbon reduction

### **Principle of Residential Development**

- 7.1 The site is a development site allocation as stipulated in the adopted DPD (2008) and therefore the principle of residential development holds significant support in policy terms. Subject to material planning matters outside of those to be reserved, the principle of development is established. The site is considered sustainable and represents an urban extension to Kings Hill on a site with partial historic brownfield use .

### **Access to the site from Clearheart Lane**

- 7.2 The applicant submitted a proposed plan for the new access road on Clearheart Lane, representing a continuation of the existing adopted highway. The detailed access point arrangements are shown in reference R-19-0045-001 Rev A and in a location wide proposed access plan reference CL-16410-01 006 Rev F, also identifying the emergency access to the south of the site.

- 7.3 Paragraph 111 of the NPPF (2023) 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.”*

*Policy SQ8 Advises that development proposals will only be permitted where they would not significantly harm Highway safety.*

- 7.4 The detailed access includes a six metre (6m) wide access road with two metre (2m) pedestrian walkway access on either flank plus additional space to allow for waiting cars. The development scheme proposes to access the site via an extension of the existing residential road known as ‘Clearheart Lane.’

Clearheart Lane is currently an unclassified non through road that serves a limited number of dwellings. The proposals will have the effect of changing the function of the road to a through road serving a larger residential development. No modifications to the road are proposed by the applicant notwithstanding the development access via a raised table feature.

- 7.5 Kent County Council (KCC) Highways have analysed the scheme and note Clearheart Lane currently accommodates two-way traffic flow, with Kent Design

Guide compliant carriageway widths and dedicated footways on both sides of the road.

- 7.6 Regarding the existing impact and relationship with Clearheart Lane, Kent County Council make the following suggestion, *“whilst on street parking is not the subject of any existing restrictions it is noted that the majority of dwellings that have frontage access, or front onto Clearheart Lane, benefit from dedicated off street parking provision. This helps to limit the levels of on-street parking that could be otherwise obstructive to the two-way flow of traffic. There is therefore no technical basis on which KCC Highways could sustain an objection to Clearheart Lane being used as a route of access to the development”*.
- 7.7 Officers are aware of significant objections to the development on grounds of increased traffic and concerns at the narrow approach on Clearheart Lane when cars are parked on the road. Notwithstanding the forementioned comments, Clearheart Lane currently provides access to approximately 40 dwellings, which would mean the new access road will provide access to roughly 105 dwellings, should they be granted consent. Secondly, Clearheart Lane is a modest/moderate length (approximately 110 metres) with crossover access to properties to the side allowing cars to park while awaiting vehicles passing. Kent County Council Highways are mindful of the linear alignment of Clearheart Lane providing good levels of forward visibility thereby allowing intervisibility between vehicles travelling in opposing directions, as well as of any vehicles that are parked on street. This carries relevance when assessing the likely impact on overall levels of highway safety at this location.

#### Sustainable Travel

- 7.8 Analysis of the site’s sustainable transport credentials has been undertaken by the applicant, with the results presented in sections 3.1 to 3.5 of the applicant’s Transport Statement (prepared by Evoke, dated March 2021). This analysis identifies that the site is located in a sustainable location within acceptable recommended walking distances of many local facilities e.g. the Discovery School, Kings Hill Sports Park and Kings Hill Waitrose, which can be accessed via existing routes. In addition, it is noted that the site is located within close proximity to an existing bus stop situated on Discovery Drive which is served by the X1 and X2 service that provides a regular service between Maidstone and West Malling train station; thus enabling the potential for trips by these modes.

#### Traffic Impact

- 7.9 The proposals are anticipated to generate 36 two-way movements (combined arrivals and departures) in the AM (08:00) and PM (17:00-18:00) peak hours. These forecasts have been derived through reference to the trip generation figures previously accepted by KCC Highways as part of the Kings Hill Phase 3

applications, which were granted on appeal. This approach is considered acceptable to KCC Highways and ensures a suitability robust assessment.

- 7.10 To establish the likely routing patterns of the traffic generated by the development the applicant has made use of a real time journey planner to identify travel times to the adjacent local highway network (A228 and Ashton Way), via different routes. The applicant's analysis has concluded that there is likely to be a relatively even split of traffic across the local network via the different available routes, given the minimal differences in journey times. KCC Highways consider this to be a reasonable conclusion.
- 7.11 Given the limited number of predicted movements resulting from the development, KCC Highways do not require further detailed junction capacity assessments in this instance based on anticipated dispersed nature of movements. Accordingly, KCC Highways do not consider that the impact of the proposals on the local highway network, in capacity terms, could be reasonably described as 'severe.'

#### Parking, servicing and Turning

- 7.12 The parking layout and servicing regime are reserved matters and as such turning and swept path analysis within the site at this stage is purely for illustrative guidance and is subject to future review. The submitted Transport Statement provides swept path analysis in Appendix D for vehicles based on cars (R-19-0045-004) and a refuse truck and fire tender vehicle (Ref R-19-0045-002). Based on the submitted information there is sufficient access and turning circles for the proposed layout.

#### Emergency vehicular access

- 7.13 The outline development scheme identifies a secondary emergency access to the site from the south-west corner via Ketrige Lane formed of an existing unmade access road. Appendix B within the Transport Statement provides swept paths analysis (R-19-0045-005 Rev B and R-19-0045-007) for the lane access. The access point is not within the ancient woodland designation and Kent CC Highway hold no objection to the route identified which previously overcame a concern raised.
- 7.14 Kent Fire and Rescue service were consulted and have confirmed that the off-site access requirements of the fire and rescue service have been met. The proposed access off Clearheart meets requirements but the service reminds the applicant that Building Regulations 2010 Volume 1 and 2 must be complied with to the satisfaction of the Building Control Authority.

#### Summary of access considerations

- 7.15 The proposed access and related secondary emergency access to the site are considered acceptable and policy compliant subject to all plans and obligations adhered to. Detailed parking, internal layout turning and servicing shall all be subject to reserved matters.

**Biodiversity impacts and mitigation:**

- 7.16 Para 174 of the NPPF (2023) seeks to d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 7.17 Para 180 of the NPPF states “if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused”.
- 7.18 Para 182 of the NPPF states “the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site”.
- 7.19 The applicant submitted an updated biodiversity net gain assessment (dated September 2022, prepared by Greenspace ecological solutions) which concluded using the biodiversity metric 2.0 calculator the site would suffer a 40% net biodiversity loss (12.13 habitat units) based on the modest on-site enhancements proposed.
- 7.20 To achieve a biodiversity net gain on site and move towards the requirement for 10% net gain as part of new regulations (albeit not formally lawful), the biodiversity report identified a site in the applicant’s ownership for off-site biodiversity mitigation. Based on table 1 in para 4.1.4 of the biodiversity report, applying enhancements to the mitigation land off-site, a 12.18% increase in Biodiversity can be realised.
- 7.21 The off-site habitat creation and enhancements are set out in detail within Para 5.3.1 of the biodiversity report and are acceptable to officers and KCC ecology. To offset the loss of habitat units within the site from the proposed development, an area located approximately 3.5 miles southwest of the site is available for enhancement (as presented in Figures 4, 5 & 6 of the biodiversity report). This area is currently agricultural pasture with scattered beech *Fagus sylvatica*, pedunculate oak *Quercus robur*, pine *Pinus sp.* and sycamore *Acer pseudoplatanus* trees.
- 7.22 The LPA does not object to the utilisation of the identified mitigation site within the Tonbridge and Malling borough area and such an off-site mitigation method is permitted by the NPPF (2023). Notwithstanding the mitigation site identified



and the 12% biodiversity net gain report, officers expect the potential on-site enhancements to be exhausted prior to the mitigation site being considered in isolation. As such, planning conditions and legal obligations shall be drafted whereby a site first approach first is conducted in partnership with the reserved matters and landscaping details to seek to provide the 10% net gain on site. In the instance whereby 10% on site cannot be realised the off-site option shall be engaged and are secured by planning condition.

**Impacts on Ecology and trees:**

- 7.23 Policy NE2 of the MDE DPD requires that the biodiversity of the Borough and in particular priority habitats, species and features, will be protected, conserved and enhanced.
- 7.24 Policy NE3 states that development that would adversely affect biodiversity or the value of wildlife habitats across the Borough will only be permitted if appropriate mitigation and/or compensation measures are provided which would result in overall enhancement. It goes on to state that proposals for development must make provision for the retention of the habitat and protection of its wildlife links. Opportunities to maximise the creation of new corridors and improve permeability and ecological conservation value will be sought.
- 7.25 Policy NE4 further sets out that the extent of tree cover and the hedgerow network should be maintained and enhanced. Provision should be made for the creation of new woodland and hedgerows, especially indigenous broad-leaved species, at appropriate locations to support and enhance the Green Infrastructure Network.
- 7.26 The site is not subject to any ecological designations and therefore is not subject to any overt protection. The submitted ecological assessment report (Dated September 2022 prepared by Green Space ecology, ref J20981\_P7\_Rev A) confirms the outputs of the report below,
- Moderate bat activity (the Bat survey confirmed no roosting bats)
  - Nesting and breeding birds
  - Dormice are present on site and best practice and mitigation strategies required to ensure that the favourable conservation status of dormice is maintained on the site post development, have been provided. hazel dormouse *Muscardinus avellanarius* is listed as a European protected species under the Conservation of Habitats and Species Regulation 2017 (as amended) (Habitats Regulations 2017),
  - Good population of slow-worms and low population of lizards, the maintenance of their welfare during construction shall be safe guarded.
  - The likelihood of other protected and otherwise notable species to occur within the site is considered negligible and no further surveys for other protected species are required.

- 7.27 Para 5.3.35 of the ecological report confirms “field signs of hazel dormice were identified within the Site during the survey. Dormice are therefore ‘Present’ within the Site. Para 6.3.39 of the report expands on the test for dormouse stating “Nest tube surveys are intended to only detect presence/likely absence of dormice and do not permit an estimation of population densities. Therefore, under current guidelines, once presence has been confirmed further surveys are not required, so long as the on-site habitats are contiguous and similar in structure to those within which animals have been recorded (Bright *et al.*, 2006). As the majority of suitable habitat within the site is similar (broadleaved woodland, tall ruderal vegetation and scrub) and the dormouse surveys (GES, 2019) recorded the presence of dormice within the woodland, it can be assumed that dormice are present throughout”. The introduction of the 15m buffer zone not only protects the ancient woodland from encroachment but provides comparable habitat to the existing and therefore an appropriate site for species migration.
- 7.28 The presence of Dormouse would require a European Protected Species Mitigation (EPSM) licence issued by Natural England prior to their removal. Para 6.3.40 of the ecological report provides details on the methodology of mitigation measures but would be subject to the requirement of a licence. The EPSM licence application can only be submitted once full planning permission has been granted and all wildlife related planning conditions (that can be released) have been discharged.
- 7.29 The planning application was accompanied by a Bat survey Report (Dated September 2022 Prepared by Green Space ecological solutions) inclusive of an initial bat survey and two emergence survey dates 13<sup>th</sup> June and 5<sup>th</sup> July 2022. Para 4.1.1 of the bat survey confirmed “no bats emerged from any of the trees during the bat emergence surveys conducted at the site”. Para 4.1.2 stated “bat activity recorded across the site identified an assemblage of just four bat species, namely common pipistrelle *Pipistrellus pipistrellus*, soprano pipistrelle *Pipistrelles pygmaeus*, noctule *Nyctalus noctula* and bat/s from the genus *myotis Myotis*”. The identified bats were foraging and commuting between habitats and roosts outside the site perimeter.

#### Impact on trees

- 7.30 The applicant submitted an Arboricultural Impact Assessment (AIA) (Dated November 2021) and a Parameter Plan 4 - Landscape (Ref CL-16410-01-009 Rev H) outlining the impact on the tree numbers on site. The site is subject to Tree Preservation Order (TPO), reference number 21/00005/TPO.
- 7.31 The AIA report states “*the majority of the trees to be removed are within the ‘C’ category due to their size or ailing condition. However, a total of three B category trees will be removed to enable the proposed development. The trees to be removed can be replaced as part of a landscape scheme for the site*”. The

two (2) existing category A trees of greatest merit shall remain and will form part of the outline open space for the site. The retention of the two (2) cat A trees is welcome and their inclusion in open space areas would create a sustainable long term healthy environment for the trees.

- 7.32 The only tree within the existing TPO which is shown for removal on the plan included within the submitted Arboricultural Report is a suppressed Cherry (T43 of the survey included within the submitted Arboricultural Report). All other TPO trees are shown for retention.
- 7.33 Overall, a total of 30 individual trees would be felled and one group of trees removed. Officers consider the site to be capable of replacing the tree loss in a 1-2 ratio (2 trees to replace everyone lost) and as such a robust landscaping condition shall be applied to any approval.
- 7.34 The Council's Tree Officer concludes the loss of the TPO tree is justified and reserved matters should include a detailed scheme of hard and soft landscaping, levels information, details of services in relation to the retained trees and a finalised site specific arboricultural method statement with tree protection plan. Relevant planning conditions are therefore applied to the outline recommendation.

**Assessment of Affordable Housing:**

- 7.35 The Affordable Housing Protocol November (2021) lays out in detail the Council's position on Affordable Housing Delivery in the interim period before a new Local Plan is adopted. This protocol is used for Development Management decisions. In addition, policy CP17 sets out a 40% affordable housing requirement, with a 70/30 split between affordable housing for rent and other affordable housing tenures. This site is therefore required to provide 40% affordable housing in accordance with council policy, along with the provision of First Homes that is now also a policy requirement.
- 7.36 A viability statement or viability appraisal has not been submitted by the applicant to confirm the scope and identification of the affordable housing on the development site. Discussions between the applicant and TMBC have confirmed the applicant shall endeavour to provide a quantum, tenure and mix of dwellings commensurate and in accordance with adopted policy CP17 of the Core Strategy and the TMBC affordable housing protocol. Notwithstanding the policy expectation for affordable housing the applicant is permitted to submit a viability report in the event the site cannot achieve the policy expectations and shall be secured via obligations in a s106 legal agreement. The detailed drafting of the provisions to be contained within the legal agreement in this respect will be worked up in liaison with the Council's Housing Services team to ensure the provision acceptably meets identified need within this part of the Borough.

**Land Contamination:**

- 7.37 Paragraph 183 of the Framework states that planning policies and decisions should ensure that:
- 7.38 a) a site is suitable for its proposed use taking account ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);
- 7.39 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
- 7.40 c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.
- 7.41 Paragraph 184 makes clear that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rest with the developer and/or landowner. The application is supported by a Phase 1 Ground Conditions Assessment including a Tier 1 Preliminary Risk Assessment, prepared by Hilson and Moron which are considered to adequately review the history and environmental setting of the site. The Phase 1 report adequately reviews the history and environmental setting of the site.
- 7.42 The applicant supplied a Phase 1 Contaminated Land & UXO Assessment (Dated 18/10/2023 – Ref 8917-HML-XX-XX-RP-U-870001) following initial concerns raised by the Environment Agency due to the potential risks to groundwater from the development. Groundwater is particularly sensitive in this area due to the location upon a principal aquifer. In addition, the area has a military history that is likely to have retained contaminants in the ground.
- 7.43 Table 6.4 of the submitted phase 1 report confirms the potential risk of contaminants which do extend to moderate risk. The Environment Agency have reviewed the report and noted the mitigation and works required to secure the site for residential development. The EA have subsequently removed their initial objection subject to planning conditions to secure the site in the event of contamination being located on site can be satisfactorily managed.
- 7.44 The TMBC Environmental Protection Officer has confirmed contamination across the wider Kings Hill development is typical for a brownfield site with most locations covered in a layer of made ground with hotspots of heavy metals, hydrocarbons and asbestos. Risks associated with ground contamination on these sites has been successfully remediated (typically through localised excavation or use of a clean cover layer) to allow for residential development with no unacceptable risks to groundwater identified.

### **Flood risk and Sustainable drainage**

- 7.45 Paragraph 167 of the Framework states that “When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:
- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
  - b) the development is appropriately flood resistant and resilient;
  - c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
  - d) any residual risk can be safely managed; and
  - e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.
- 7.46 Para 169 expects “Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:
- a) take account of advice from the lead local flood authority;
  - b) have appropriate proposed minimum operational standards;
  - c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and
  - d) where possible, provide multifunctional benefits.
- 7.47 Policy CP10 states, “within the floodplain development should first seek to make use of areas at no or low risk to flooding before areas at higher risk, where this is possible and compatible with other policies aimed at achieving a sustainable pattern of development.
- 7.48 The planning application is supported by an FRA (Flood risk assessment) prepared by Hilson Moran confirming the site is located in flood zone 1. The FRA report states, “as a consequence of the proposal, the rate of runoff generated from the site will be maintained at the current greenfield rate. The effect of the proposed development on the volume and rate of surface runoff generated is, therefore, deemed to be of neutral/negligible significance”.

- 7.49 Policy seeks development to maintain greenfield run off rates based on the individual specifics and therefore robust conditions shall be applied to secure and ensure a Sustainable Drainage System (SuDS) for the proposed development will be designed to accommodate all additional runoff from the site for rainfall events up to and including the 1 in 100-year event including a 40% allowance for climate change and infiltrate it to ground. In addition, the drainage system should allow for methods that limit subterranean storage and rely on above ground methods and are integral to the core design elements of the site.
- 7.50 The FRA report considers the proposed high sustainable drainage and states that “consequently there would be no requirement for additional discharges to the surface water sewer system, and thus no mitigation is deemed necessary. The residual risk from surface water sewer flooding is therefore deemed to be of neutral/negligible significance”. Officers note the conclusions provided are premeditated on the drainage scheme achieving the required greenfield run off rates and therefore the conditions attached to consent are designed to ensure the scope of drainage design scheme.

Foul sewage

- 7.51 The submitted FRA report states “it is anticipated that the proposed development will lead to an increase in foul water discharges from the site. The developer will augment the existing sewer infrastructure accordingly. In accordance with Building Regulations Part G, it is also anticipated that low water consumption appliances (low-flow taps and white goods) will be introduced throughout the proposed redevelopment, which will minimise foul water discharges”.
- 7.52 The site is in close proximity to the sewage network on Clearheart Lane and therefore the physical connection is not considered to be physically difficult. The capacity of the sewage system will need to be considered and shall form a condition of the development scheme.

**Reserved matters:**

- 7.53 The nature of the outline planning application reserved a range of material planning matters for later discussions and presentation of details subject to the outline planning application receiving consent.

Layout, design and massing:

- 7.54 Para 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”.

7.55 Policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007 requires that all development must be well designed and of a high quality in terms of detailing and use of appropriate materials, and must through its scale, layout, sitting, character and appearance be designed to respect the site and its surroundings.

7.56 The applicant has submitted an indicative masterplan for illustrative purposes to reflect how the layout could achieve 65 dwelling units. The final layout and design of the development would be subject to further detailed submissions and reviews by officers, and at this stage further consideration is not applicable.

#### Dwelling Mix

7.57 The applicant outlined a provisional dwelling mix in the submitted design and access statement with a table illustrated below. The final dwelling mix is subject to broad adherence to the adopted policy and where applicable viability on site to achieve targets in policy CP17.

Dwelling size	No. of units	Percentage (%)
2 bed	36	55.4
3 bed	15	23.1
4 bed	8	12.3
5 bed	6	9.2
Total	65	100

#### Standard of accommodation

7.58 The proposed dwellings would all be required to meet and where possible exceed the national floorspace standards and provide sufficient and usable external amenity area.

7.59 The final layout and interaction between buildings coupled with areas of communal playspace will need to consider the overall impact on the future living conditions of residents.

#### Impact on neighbouring amenity

7.60 Para 130 of the NPPF states development “should ensure places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users”.

7.61 The illustrative masterplan shows that the development site is largely divorced from adjacent development to the north and no development is applicable on the east, west and southern boundaries. Elements of the development of houses on the north boundary of the site have the potential to have some impact on neighbouring properties but as the final layout is to be finalised by

reserved matters, areas of conflict if applicable can be addressed subject to the outline scheme being consented.

Parking and refuse

7.62 The planning application is in outline (with all matters reserved other than access) and therefore the parking arrangements and internal highway layout will be further analysed as part of the reserved matters stage, taking into account the relevant KCC guidance. Notwithstanding the final detail of car parking on site to be confirmed, the illustrative masterplan outlines broadly how parking would be provided. Resident and visitor parking provision would need to accord with IGN3 (Parking standards). For context the interim Kent Vehicle parking standards table is shown below,

**Kent Vehicle Parking Standards (July 2006)  
& Kent Design Guide Review; Interim  
Guidance Note 3 – Residential Parking  
(November 2008);**

3.27 For a suburban context, the following residential parking standards are set out:

	<b>Car Parking</b>	<b>Cycle Parking</b>
<b>1 bed houses</b>	1 space per unit (allocation possible)	1 space per dwelling
<b>2 bed houses</b>	1 space per unit (allocation possible)	2 spaces per dwelling
<b>3 bed houses</b>	1.5 spaces per unit (allocation possible)	2 spaces per dwelling
<b>4+ bed houses</b>	2 independently accessible spaces per unit (allocation possible)	3 spaces per dwelling

7.63 The development site would be capable of providing sufficient parking for the outline 65 units and potentially highly efficient layouts could be applied to the site to improve efficiency of land use and prevent unnecessary dead space.

Landscaping

7.64 Para 130 of the NPPF seek to ensure development is “visually attractive as a result of good architecture, layout and appropriate and effective landscaping”. Significant loss of trees and biodiversity would result from the development and therefore a robust replacement landscape strategy would be expected by officers and shall be conditioned accordingly.

7.65 Para 131 states “trees make an important contribution to the character and quality of urban environments and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are



tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly planted trees, and that existing trees are retained wherever possible". The internal layout has high potential to replace the lost trees and create an attractive environment reflective of surrounding residential areas largely typified by tree lined streets.

- 7.66 Any landscape scheme will be subject to reserved matters and would be developed in partnership with the biodiversity enhancements on site and appropriate planning conditions have been applied to secure high quality appearance.

Energy efficiency and carbon reduction:

- 7.67 Adopted policies CC1 and CC2 within the MDE DPD are considered to be out of-date following the Housing Standards Review in 2014 which removed the voluntary Code for Sustainable Homes and made it clear that local plans should not be setting any additional local technical standards or requirements relating to energy performance of new dwellings. These matters are within the remit of the national Building Regulations. Notwithstanding that, paragraphs 152 to 154 of the NPPF (2023) are relevant and demonstrate that the Council's Climate Change Strategy can be considered a material consideration.
- 7.68 The applicant has provided a sustainability Statement and energy Strategy (prepared by Hilson and Moran, dated March 2021) outlining the energy hierarchy and consideration of the future development against the criteria.
- 7.69 The report demonstrates a range of sustainable design considerations including heat pumps and photovoltaic panels on ideally south facing roofs. Officers would seek additional sustainable products and methods will be incorporated within the scheme, including:
- Reducing greenhouse gas emissions from energy use (Fabric First);
  - Provision of renewable energy (10% energy demand met by renewables);
  - Sustainable transport measures, including electric vehicle charging provision;
  - Efficient use of materials;
  - Reduction in water consumption; and
  - Provision of green infrastructure and ecological protection and enhancement measures.

7.70 In addition, the scheme also intends to exceed Part L of the Building Regulations which contains requirements relating to the conservation of fuel and power. In particular:

- External walls 20% improvement;
- Floors 40% improvement;
- Roof 50% improvement;
- Windows 35% improvement; and
- Air tightness 50% improvement.

**Other Material matters:**

7.71 The application provided an archaeological desk- based assessment survey (prepared by Oxford archaeology dated June 2020), the broad summary of the archaeological value is summed up below,

7.72 *“The site lies in the hinterland of several medieval settlements with probable Anglo-Saxon origins, though no heritage assets of early and later medieval date are recorded within the vicinity of the site. Given the presence of several areas of ancient woodland, it is possible that the landscape was largely woodland in nature, which is likely to have continued into the post-medieval period as evidenced by historic mapping. A number of post-medieval farmsteads within the vicinity also demonstrate the agricultural nature of areas of the landscape.”*

7.73 Lichfields planning consultancy acting on behalf of the applicant and landowner Tregothnan Estates prepared a Statement of Community Involvement and elaborates on the applicants efforts to foster involvement and local feedback on the scheme.

**Developer Contributions:**

7.74 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

7.75 (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

7.76 KCC has advised that in order to mitigate the additional impact that the development would have on delivery of its community services, the payment of

appropriate financial contributions is required, as follows (noting that this is based on the illustrative mix for proposal)

- Primary Education- £351,828.10
- Secondary education - £363,167.35
- Secondary Land - £311,088.95
- Special Education Needs - £36,388.95
- Community Learning - £2,223.65
- Integrated Children's Services - £4,813.25
- Library - £4,070.95
- Adult Social Care - £11,757.20
- Waste - £3,380.

7.77 TMBC apply open space contributions to developments of 5 dwellings and greater and therefore the outline development would be liable for a contribution subject to on-site open space provision covering the following,

- Parks & Gardens
- Outdoor Sports Facilities
- Children's and Young People's Play Areas

7.78 The final layout and landscape plan is reserved matter and therefore final contributions cannot be applied at this stage but would form wording in a section s106 legal agreement. In addition to the above, contributions to provision of footpaths, cycle and bridle routes linking with existing and/or proposed routes at Kings Hill shall be sought.

7.79 Legal matters and Heads of Terms shall include the need for affordable housing to be provided with appropriate triggers and all obligations set out above. For the avoidance of doubt the proposed development shall provide 40% affordable housing with a 70/30 split between affordable housing for rent and other affordable housing tenures.

**Planning Balance and conclusions:**

7.80 Since the Council cannot demonstrate a 5yr housing land supply, the presumption in favour of sustainable development as set out at paragraph 11(d) of the Framework applies in this instance (the tilted balance). That means that permission should be granted unless the application of policies relating to

designated heritage assets provide a clear reason for refusing the development; or there are 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.

- 7.81 Whilst there would be some change in character from the loss of previously open and partly wooded open space, the parameters of this outline scheme provide sufficient confidence that the development would be acceptably landscaped, such that the impacts are not deemed to be significantly harmful or adverse. Despite being an undeveloped parcel of land the application site is included within the urban area boundary of Kings Hill.
- 7.82 Officers apply significant weight to the designation of the site known as F2 (f) (Kings Hill) in the development Land Allocations DPD (adopted April 2008) and which is clearly identified as an established development site. Members will be aware of the need to deliver more housing including affordable housing in order to meet housing delivery targets. This proposed development would deliver a total of 65 homes. In light of the presumption in favour of sustainable development and the tilted balance, this needs to be given significant weight.
- 7.83 If members disagree with officers and consider that any of the above matters should attract negative weight in the planning balance, then it should be noted that these adverse impacts would need to significantly and demonstrably outweigh the benefits in order for the application to be refused, in accordance with paragraph 11 of the NPPF

## **8. Conclusion:**

- 8.1 The site is an identified development site for 65 dwellings as stipulated and set out in the adopted site allocation DPD (2008) and therefore the principle of residential development is sound and holds significant support in policy terms. KC Highways approve the access which is the only core matter not formally reserved and therefore the outline planning application is acceptable to officers.
- 8.2 The outline planning application is subject to robust planning conditions and a s106 legal agreement. The proposed design, massing and scale of development amongst other planning matters would be subject to further review by officer and committee members.
- 8.3 The outline development meets strategic overarching policies and would not in result in demonstrable harm as per Para 11 of the NPPF (2023).

## **9. Recommendation**

- 9.1 Grant outline permission subject to the signing of an appropriate S106 legal agreement (see paragraphs 7.76, 7.77, 7.78 and 7.79 above) and to the following conditions:

## Conditions

1. Approval of details of the siting, design, external appearance of the building(s), internal access road(s), and the landscaping of the site, for any phase or sub-phase of the development of the site, (hereinafter called the "reserved matters") shall be obtained in writing from the Local Planning Authority.

Reason: No such approval has been given

2. Application for approval of the reserved matters in the first phase or first subphase of the development shall be made to the Local Planning Authority not later than three years from the date of this permission.

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

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

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

4. The development hereby permitted shall be carried out in accordance with the following approved plans:

Proposed access Locations (CL-16410-01 006 Rev G)

Site Plan (Ref CL 16410-01-001 Rev D)

Parameter Plan 4 - Landscape (Ref CL-16410-01-009 Rev H)

Site Access Arrangement (Ref R-19-0045-001 Rev B – Dated 20-05-20)

Reason: To ensure the development is carried out in accordance with the approval and to ensure the quality of development indicated on the approved plans is achieved in practice.

5. Site Levels

- a) No development shall take place until details of the levels of the building(s), road(s) and footpath(s) in relation to the adjoining land and highway(s) and any other changes proposed in the levels of the site have been submitted to and approved in writing by the Local Planning Authority.

- b) The development shall thereafter be implemented in accordance with the details as approved under this condition and retained as such thereafter.

Reason: To ensure that the development is carried out at suitable levels in relation to the highway and adjoining land having regard to drainage, gradient of access, the safety and amenities of users of the site, the amenities of the area and the health of any trees or vegetation

### **Highways/Transport/Parking**

6. Prior to the commencement of any phase or sub-phase of the development which includes erection of buildings, details in accordance but subject to site specific changes, with the Kent Appendix 1 Design Guide IGN3 shall be submitted to and approved in writing by the Local Planning Authority showing adequate resident and visitor parking and turning space for vehicles likely to be generated by that phase or sub-phase of the development. The approved areas of land shall be provided, surfaced and drained in accordance with details to be submitted to and approved in writing by the Local Planning Authority before the buildings constructed within that phase or sub-phase are occupied and shall be retained for the use of the occupiers of, and visitors to, the premises.

Thereafter, no permanent development, whether or not permitted by Town and Country Planning (General Permitted Development) Order 2015, shall be carried out on the land so shown (other than the erection of a private garage or garages) or in such a position as to preclude vehicular access to this reserved parking area.

Reason: Development with provision of adequate accommodation for the parking or garaging of vehicles is less likely to lead to parking inconvenient to other road users and detrimental to amenity.

7. Prior to the commencement of any phase or sub-phase of the development, details of the proposed service/emergency road linking to KetrIDGE Lane via must be submitted to and approved in writing by the Local Planning Authority. Details to include width, surfacing, swept paths.

Reason: To ensure that the development complies with adopted Policy and does not prejudice access by emergency services

8. Prior the commencement of any phase or sub-phase of the development a Construction Management Plan before the commencement of any development on site to include the following:
  - (a) Routing of construction and delivery vehicles to / from site
  - (b) Parking and turning areas for construction and delivery vehicles and site personnel
  - (c) Timing of deliveries
  - (d) Provision of wheel washing facilities prior to commencement of works on site and for the duration of the construction.
  - (e) Temporary traffic management / signage
  - (f) Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction.
  - (g) Provision of measures to prevent the discharge of surface water onto the highway

Reason: To ensure the safe and free flow of traffic.

## **Drainage**

9. No development shall take place until the details required by Condition 1 (reserved matters condition for layout) 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.

10. Where infiltration is to be used to manage the surface water from the development hereby permitted, it will only be allowed within those parts of the site where information is submitted to demonstrate to the Local Planning Authority's satisfaction that there is no resultant unacceptable risk to controlled waters and/or ground stability. The development shall only then be carried out in accordance with the approved details.

Reason: To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

11. Prior to development above slab level 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.

12. No development shall commence until a strategy to deal with foul water drainage is submitted to, and approved in writing by, the local planning authority.

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

## **Archaeological**

13. 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.

### **Contamination**

14. No development approved by this planning permission shall commence until a strategy to deal with the potential risks associated with any contamination of the site has been submitted to, and approved in writing by, the Local Planning Authority. This strategy will include the following components:
1. A site investigation scheme, based on the Phase 1 Contaminated Land & UXO Assessment (Dated 18/10/2023 – Ref 8917-HML-XX-XX-RP-U-870001) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
  2. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
  3. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To ensure that the development does not contribute to, or put at risk future occupiers of the development

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

Reason: To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved



verification plan have been met and that remediation of the site is complete. This is in line with paragraph 174 of the National Planning Policy Framework (2023).

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

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site in line with paragraph 174 of the National Planning Policy Framework.

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

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants in line with paragraph 174 of the National Planning Policy Framework.

### **Trees**

18. a) No development shall take place until details of the location, extent and depth of all excavations for services (including but not limited to electricity, gas, water, drainage and telecommunications) in relation to trees on and adjacent to the site have been submitted to and approved in writing by the Local Planning Authority.
- b) The development shall thereafter be implemented in accordance with details approved under this condition.

Reason: To safeguard the health of existing tree(s) which represent an important amenity feature.

### **Hard and Soft Landscaping:**

19. a) A scheme of hard and soft landscaping, including details of existing trees to be retained and size, species/cultivar, planting heights, densities and positions of any soft landscaping, shall be submitted to and agreed in writing by the Local Planning Authority before the development hereby permitted is commenced.
- b) All work comprised in the approved scheme of landscaping shall be carried out before the end of the first planting and seeding season following occupation of any part of the buildings or completion of the development, whichever is sooner, or commencement of the use.

c) Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of appropriate size and species in the next planting season.

Reason: To ensure a satisfactory appearance to the development.

20. Tree protection and method statement:

a) No site works (including any temporary enabling works, site clearance and demolition) or development shall take place until a dimensioned tree protection plan in accordance with Section 5.5 and a site specific arboricultural method statement detailing precautions to minimise damage to trees, based on and expanding upon the principles raised within the "Arboricultural Impact Assessment and Method Statement, Revision D, A Report for Tregothnan Estate, November 2021" by Greenspace Ecological Solutions, including, but not limited to, finalised details relating to methodology, protection measures and precautions to be undertaken to minimise damage to trees during the development works, installation of services and construction of new hard surfaces/landscaping works, details of treework to be undertaken as part of the proposed development, phasing of the development works, and an auditable/audited system of arboricultural site monitoring and be in accordance with Section 6.1 of British Standard BS5837: 2012 (Trees in relation to design, demolition and construction - Recommendations) have been submitted to and approved in writing by the Local Planning Authority.

b) No site works (including any temporary enabling works, site clearance and demolition) or development shall take place until the temporary tree protection shown on the tree protection plan approved under this condition has been erected around existing trees on site. This protection shall remain in position until after the development works are completed and no material or soil shall be stored within these fenced areas at any time. The development shall be implemented in accordance with the protection plan and method statement as approved under this condition.

Reason: To safeguard the health of existing trees which represent an important amenity feature.

**Biodiversity**

Lighting plan

21. No development above slab level for any phase or sub-phase of the development of the site shall commence until a report detailing the external lighting scheme and how this will not adversely impact upon wildlife has been submitted to and approved in writing by the LPA. The report shall include the following figures and appendices:

- A layout plan with beam orientation
- A schedule of equipment
- Measures to avoid glare
- An isolux contour map showing light spillage to 1 lux.

The approved lighting plan shall thereafter be implemented as agreed.

Reason: To limit the impact of light pollution from artificial light on nature conservation (paragraph 185 of the NPPF)

Nesting season

22. All areas of trees, hedges, scrub or similar vegetation where birds may nest which are to be removed as part of the development, are to be cleared outside the bird-nesting season (March - August inclusive) or if clearance during the bird-nesting season cannot reasonably be avoided, a suitably qualified ecologist will check the areas to be removed immediately prior to clearance and advise whether nesting birds are present. If active nests are recorded, no vegetation clearance or other works that may disturb active nests shall proceed until all young have fledged the nest.

Reason: Nesting birds are protected under the Wildlife & Countryside Act, 1981 (as amended), this condition will ensure that wildlife is not adversely affected by the proposed development

23. No development shall commence which results in a decrease in bio-diversity levels on site when compared with existing baseline BNG calculations (as outlined in the submitted Biodiversity Net Gain - Dated September 2022) at the site until either:

- (1) Biodiversity net gain has been secured via on-site biodiversity enhancements (using 2.0 metric) by way of introducing sufficient replacement biodiversity habitats to meet the councils target of a 10% net increase in biodiversity (see obligations) and has been confirmed in writing by the local planning authority: or
- (2) The site specific off-site mitigation scheme (set out in the planning obligation) that accompanies this planning permission (as outlined Biodiversity Net Gain - Dated September 2022) has been implemented in accordance with the requirements set out in the planning obligation and local planning authority has given its written confirmation of the same.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to enhance the Biodiversity of the area in accordance with Paragraph 170 of the NPPF 2023 and Policies NE3 and NE4 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document.

24. Subject to condition 23 and the implementation of subpart (1), An Ecological Design Strategy (EDS) with the first detailed application, for the site shall be submitted to, and approved by, the local planning authority. The EDS will include the following:
- Defined conservation objectives of the proposed works.
  - Review of site potential and constraints.
  - Detailed design(s) and/or working method(s) to achieve stated objectives.
  - Extent and location/area of proposed works on appropriate scale maps and plans.

- Type and source of materials to be used where appropriate, e.g., native species of local provenance.
- Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- Details of those responsible for implementing the works.
- Details of initial aftercare and long-term maintenance, and.
- Details for monitoring and remedial measures.

The EDS will be updated with each subsequent application, implemented in accordance with the approved details and retained in that manner thereafter.

Reason: To protect habitats and species identified in the ecological surveys from adverse impacts during construction.

25. Subject to the implementation of subpart (2) of condition 23, a detailed Mitigation Strategy with the first detailed application, and prior to the commencement of works (including site clearance), shall be submitted to, and approved by, the local planning authority. The plan must include the following:

- Objectives of the proposed works
- Detailed design(s) and/or working method(s) necessary to achieve stated objectives.
- Extent and location of proposed works, including the identification of suitable receptor sites, shown on appropriate scale maps and plans;
- Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction.
- Persons responsible for implementing the works, including times during construction when specialist ecologists need to be present on site to undertake/supervise works;
- Use of protective fences, exclusion barriers and warning signs, and;
- Disposal of any wastes for implementing work.

The works shall be carried out in accordance with the approved details and retained thereafter.

Reason: To protect habitats and species identified in the ecological surveys from adverse impacts during construction.

26. Prior to the first occupation of the residential development, the 15m buffer zone between the ancient woodland to the north, south and east as illustrated on plan reference Parameter Plan 4 landscape (Ref CL-16410-01-009 Rev H) shall be defined and clearly laid out for the intended purpose of creating a buffer zone to the ancient woodland area. The final appearance of the buffer shall be subject to the written approval by the Local planning authority in accordance with the biodiversity net gain strategy and mitigation plan subject of conditions 26, 27 and 28 of this outline planning approval.

Reason: to retain connectivity for animals such as the dormouse and other species and to reduce pressure on the ancient woodland

### **Other Material Matters**

#### Low carbon technology

27. Prior to occupation and in conjunction with submitted Sustainability Statement and Energy Strategy (Ref Dated March 2021 Ref 28917-RP-SU-001) details of the zero / low carbon technologies to be used in the development (rooftop photovoltaic panels and combined heat & power boilers) shall be provided in accordance with details to be submitted to the Local Planning and permanently maintained. The submitted detail shall demonstrate compliance with the approved renewable energy strategy and include the design, size, siting, and a maintenance strategy / schedule inclusive of times, frequency and method.

Reason: In the interest of sustainable development and to ensure that the Local Planning Authority may be satisfied that CO2 emission reduction targets by renewable energy are met in accordance with adopted Policy.

#### Fibre connectivity infrastructure

28. Prior to first occupation of each building, detailed plans shall be submitted to and approved in writing by the local planning authority demonstrating the provision of sufficient ducting space for full fibre connectivity infrastructure within the development. The development shall be carried out in accordance with these plans and maintained as such in perpetuity.

Reason: To provide high quality digital connectivity infrastructure to contribute to London's global competitiveness.

#### 29. Security

Prior to first operation use, the development shall achieve a Certificate of Compliance to the relevant Secure by Design Guide(s) or alternatively achieve Crime Prevention Standards submitted to and approved in writing by the Local Planning Authority in conjunction with the Kent Police. The development shall be carried out in accordance with the approved details and thereafter shall be fully retained and maintained as such for the lifetime of the development.

Reason: In the interests of protecting the privacy and security of neighbouring occupiers and to ensure adequate security features are undertaken to protect residents.

#### Materials

30. No development within any phase or sub-phase above ground level shall commence until details and samples of all materials to be used externally within that phase or sub-phase 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 and appearance of the area or the visual amenity of the locality.

### **Informatives**

1. Site access is a requirement of the Building Regulations 2010 Volume 1 and 2 and must be complied with to the satisfaction of the Building Control Authority who will consult with the Fire and Rescue Service once a building Regulations Application has been submitted if required.
2. (European Protected Species) The applicant is reminded that, under the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended), it is an offence to: deliberately capture, disturb, injure, or kill; damage or destroy a breeding or resting place; deliberately obstructing access to a resting or sheltering place. Planning consent for a development does not provide a defence against prosecution under these acts. Ponds, other water bodies and vegetation, such as grassland, scrub, and woodland, and also brownfield sites. Where proposed activities might result in one or more of the above offences, it is possible to apply for an EPS mitigation licence from Natural England or the district licence. If a protected species are encountered during development, works must cease, and advice should be sought from a suitably qualified ecologist.