

East Malling, West Malling and Offham

TM/23/03060

East Malling and Larkfield

Location: Land west of Stickens Lane Mill Street and southwest of Clare Lane East Malling West Malling

Proposal: Outline Application: The erection of up to 150 dwellings (including affordable housing) with public open space, landscaping, sustainable drainage system (SuDS) and vehicular access point. All matters reserved except for means of access.

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Executive Summary:

- The application seeks outline planning permission, with all matters reserved for future consideration apart from access for 150 dwellings with 40% of these being affordable properties.
- The means of access is indicated as being in the north of the site, taken from the south side of Clare Lane. Alterations are proposed to the existing highway along Clare Lane to be covered by a separate S278 agreement.
- The site is outside the settlement boundary of East Malling Village however due to the borough not having a 5-year housing land supply, the presumption in favour of sustainable development test at paragraph 11 of the NPPF is applied.
- Firstly, it is assessed whether the NPPF policies protecting areas and assets of particular importance provide a clear reason for refusing the development. It is considered that the development would not conflict with the NPPF policies in relation to flood risk and designated heritage assets (paragraph 11 (d) (i) of the NPPF).
- As such the presumption in favour of sustainable development set out at paragraph 11 (d) (ii) is applied, thereby granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- This study assesses the development against material planning considerations, including non-designated heritage assets, drainage, locational characteristics and associated impacts, agricultural land quality, character and pattern of development, impact upon visual amenities, open space, access, highways and transport, ecology, biodiversity, trees, noise, light and air pollution, contamination, archaeology and minerals. The development is considered acceptable in all of these aspects.

- The development includes developer contributions to be secured in a legal agreement, including financial contributions towards education and community services, PROW improvements, healthcare, offsite open space and community facilities, in addition to securing monitoring off-site biodiversity net gain and 40% on site affordable housing. The development would contribute significantly to meeting this need for affordable housing and housing generally. The development would also deliver a wide range of social, economic and environmental benefits.
- This study concludes that there would be no adverse impacts of granting planning permission for the development that would significantly and demonstrably outweigh the benefits that the development would bring, when assessed against the policies in the Framework taken as a whole.
- It is therefore recommended that Outline Planning Permission be granted subject to a legal agreement to secure the on-site affordable housing, BNG monitoring and developer contributions and planning conditions and informatives to ensure that the development comes forward in an acceptable, high-quality fashion.

1. Description of Proposal:

- 1.1 Outline planning permission, with all matters reserved for future consideration apart from access is sought for the development of up to 150 dwellings, of which 40 percent would be affordable. The development would be supported by associated public open space, landscaping and sustainable drainage (SuDS).
- 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. Subject to approval of the outline planning application, these other matters will be covered by subsequent reserved matters planning applications.
- 1.3 The means of access is indicated as being in the north of the site, taken from the south side of Clare Lane. Alterations are proposed to the existing highway along Clare Lane to be covered by a separate S278 agreement should planning permission be granted, including the addition of 30mph repeater signs, relocated 30mph rondel signs reinforced with red background, reinforced existing 30mph rondels, a new welcome to East Malling sign, speed activated sign, new lighting columns and the creation of a pathway along the south side of Clare Lane, crossing to the north side of Clare Lane in-front of the Malling school.
- 1.4 In addition, indicative plans which will guide the detailed design of the scheme (the reserved matters) in the event that outline planning permission is granted have been put forward as follows:
 - A Development Framework plan which shows a proposed residential area of 3.77ha of up to 132 dwellings at 35 dwellings per hectare and a proposed lower density residential area of 0.60ha of up to 18 dwellings at 30 dwellings per

hectare. It shows the rough areas of both primary and secondary streets, alongside private drives/lanes and shared streets. Areas of open space are illustrated, including a Locally Equipped Area of Play, community orchard, recreational routes, wildlife pond and wildflower meadows, alongside areas of retained and new landscaping by way of trees and hedgerows.

- A Building Heights Parameters Plan indicating that the scale of the dwellings shall be between one and a half storeys to two and a half storeys (dwellings with rooms within loft spaces).
- Design & Access Statement, setting out a design vision, use and amount of residential development, green infrastructure and public open space, green infrastructure details, revised illustrative masterplan and indicative external appearance, facing materials, roofscape and boundary treatments and six design principles which are detailed as follows:
 1. To retain structural vegetation where possible and enhance the existing landscaping through new planting of native and appropriate tree and hedgerow species. The existing landscaping will inform the layout. The A Category oak tree situated adjacent to the existing public footpath will be retained within a green corridor and will form a focal space. In addition to the retention of this tree, the group of trees which extend south west of it will also be retained in a green corridor which penetrates the development, helping to break up the built form of the proposed development and contribute to the verdant character. In the northern part of the site, the existing group of silver birch trees which run along the site's north western boundary will be retained to help filter views of the new homes and access street from the existing properties on Broadwater Road to the west.
 2. A central area of public open space adjacent to the retained oak tree and the existing public footpath and will be appropriately overlooked by the new homes. The public open space will offer space for formal and informal recreation and will include a new equipped children's play area in the form of a Locally Equipped Area for Play. The open space will also be enhanced with new tree and wildflower planting, and will include new sustainable drainage system (SuDS) features in the form of an attenuation basin and a soakaway trench. The public open space will form a focal point to the new neighbourhood, and will be easily accessible to new residents of the proposed development as well as existing residents of East Malling.
 3. Dense planting along Clare Lane, by way of new tree and thicket planting provided adjacent to the new access point from Clare Lane to ensure that the existing vegetation which will require removal to facilitate the access point is replaced as far as practically possible. This replacement landscaping will be of appropriate species, and will assist in filtering the views of the proposed new homes from the Clare Park and Blacklands Conservation Area.

4. Undeveloped southern edge because the southern part of the site is located on the highest ground, and is therefore the most visually sensitive area. Therefore, this part of the site will be left free from any built development, and an open space measuring between 15m and 40m in width, is proposed between the edge of the development and the site's southern boundary, adjacent to the railway line. Also, an area of existing grassland in this part of the site will be retained and enhanced.
5. Streets for all by adopting 'Building for a Healthy Life', which highlights the importance of creating high quality, more inclusive streets which are designed to balance the need to accommodate the movement of motor vehicles alongside the need for people to move along and cross streets with ease. These measures include low-speed streets, encouraging walking, cycling and outdoor play, street trees, pedestrian/cycle priority and a shared street space. The proposed new development shall include street trees and green verges along its primary street to signify its importance as the main route through the development, whilst also providing a verdant character to the street. These street trees and green verges will radiate outwards to the peripheral parts of the site via the proposed secondary streets, which will give the feeling of the open spaces around the edges of the site being drawn through the residential parcels.
6. Lower density/farmyard style buildings for the housing located in the western part of the site. The form of these properties is indicated to be reflective of the rural, farmhouse character of the area, and particularly of Cobb's Hall, ensuring an appropriate transition is created between the new settlement edge and the countryside to the west of the site. Shared street spaces are also proposed, and will be located at key junctions and crossing points to control traffic speeds, create a sense of place, and to prioritise pedestrian and cycle movement around the site.

2. Reason for reporting to Committee:

- 2.1 At the request of Councillor Roger Roud, and supported by Ward Councillor Michelle Tatton, to enable the committee to consider the impact of the proposals in relation to the impact upon the countryside, agricultural land, Conservation Areas/heritage, highways, access, pedestrian safety, light pollution, trees, biodiversity and archaeology.

3. The Site:

- 3.1 The site is an area of approximately 6.8 hectares to the west of East Malling village, south side of Clare Lane, and to the west of Mill Street and Stickens Lane. It consists of three agricultural fields and part of PROW MR117. The site is outside but adjacent to the western village settlement boundary of East Malling.

- 3.2 The site is bound by Clare Lane and Public Right of Way MR117 to the north, existing arable fields to the west, the London to Ashford via Maidstone railway line to the south, and rear gardens of existing properties along Mill Street, Darcy Court and Stickens Lane to the east.
- 3.3 The Clare Park and Blacklands Conservation Area is to the north of the site and covers a small part of the access and the proposed pathway along Clare Lane. There is also the Clare House Historic Park and Garden Non-designated heritage asset to the north. To the east of the site there is also the Mill Street East Malling Conservation Area.
- 3.4 A grassed field forms the northern part of the site (GF1), and is linear in nature, extending southwards from Clare Lane in the north. GF1 is comprised of amenity grass and is bound by a tree belt (silver birches) along its western extent. To the east, GF1 is bound by the adjoining house and garden wall in the north, with the southern part of the eastern boundary marked by post-and-rail and post-and-wire fencing. A vegetated embankment, around 2.5m in height, bounds GF1 to the north, with Clare Lane beyond. To the south, GF1 is bound by an outgrown hedgerow and scrub, with the route of the public footpath MR117 beyond. A mature Category A Oak tree is sited within the eastern side of the southern hedgerow boundary of GF1.
- 3.5 The largest part of the site comprises the grassed field in the south east (GF2). GF2 lies to the south of the public footpath and is separated from it by a post-and-wire fence. It is bound to the east and northeast by the rear garden timber fences of the properties on Darcy Close in the north, and also by that of the houses at numbers 10 and 15 Stickens Lane. The eastern site boundary in the south is marked by the edge of a mown strip of grass, with the managed ornamental hedgerow of the adjoining residential property located a short distance beyond. The southern site boundary is formed by a post and wire fence, with intermittent hedgerow and scrub vegetation along it, with the railway line beyond. The western boundary of GF2 is formed by a post-and-wire fence separating GF2 from the arable field to the west. There is intermittent hedgerow and scrub vegetation along this fence line, increasing in density and height to the north.
- 3.6 The southwestern field comprises a narrow strip along the east of a larger arable field (A). The southern boundary is formed by the continuation of the vegetation along the railway line, and the northern boundary is formed by a 2m high hedgerow, with the public footpath located beyond. The western boundary is unmarked on the ground.
- 3.7 The southern part of the site is located on a shallow north-facing slope, with the grassed field in the north of the site sloping down towards the southeast. The southern part of the site slopes down gently to a shallow valley along the public footpath within it, from a high point at around 40m above Ordnance Datum (AOD) in the southeastern corner, to a low point of around 30m AOD at the eastern end of the public footpath within the site. The northern part of the site slopes down from the

north western corner at around 36.5m AOD, to around 31m AOD at the south eastern corner. The land to the west of the site continues to rise gently towards the A228, while the land to the east and north of the site is at a similar topography to it. To the south, the land continues to gently rise to a plateau along Well Street.

4. Planning History (relevant):

- 4.1 There have been a number of planning applications for various parts of this site over time, however many of these were only for parts of the application site and the applications are over 50 years old, therefore they were assessed under a different planning policy context.

TM/59/10508/OLD - Refuse - 02 September 1959

Outline Application for residential development.

TM/61/10641/OLD - Refuse - 17 October 1961

An outline application for residential development and vehicular accesses.

TM/63/10814/OLD - Refuse - 30 July 1963

Outline application for residential development with access roads, for Executors of L.L. Godden.

TM/64/10634/OLD - Refuse - 08 December 1964

Erection of dwellings.

TM/64/10635/OLD - Refuse - 08 December 1964

Erection of dwellings.

TM/67/10745/OLD - Refuse - 04 January 1967

Erection of dwellinghouse and construction of access roads

TM/67/10747/OLD - Refuse - 04 January 1967

Residential Development and Access Roads (30 Acres)

TM/74/11931/OLD - Refuse - 25 March 1974

The erection of dwellings.

TM/74/11783/OLD - Refuse - 25 March 1974

Outline application for residential development. Superseded by MK/4/73/874.

5. Consultees:

5.1 All consultee and public comments are summarised below. Full copies of comments can be found on the Council's website.

5.2 East Malling and Larkfield PC:

Response 1:

Public footpath MR117 is affected by this application, with application being advertised for this reason alongside others. Path is excluded from the site plan save for a short section crossing the site. Path from Mill Street is unregistered land/ownership is unknown. Should a Public Notice be displayed on site as it is not in the applicant's control or ownership? As such, how would developers "upgrade" this path. Drainage might be achievable via this public footpath – presume landowner & KCC consent would be needed.

Response 2:

Strongly object to this application in principle for the reasons below.

- Site location 'west of Stickens Lane' misleading - sole access is off Clare Lane.
- Difficult seeing what other representations have been made.
- Who owns the route of the public path crossing the site?
- Site is in the countryside – contributes to the setting of East Malling rural village, with its Conservation Areas and many Listed Buildings.
- Countryside appreciated by local residents using public footpath MR117, with views of the converted Oast, listed Weir Mill and sense one is leaving the village.
- Cobbs Hall Listed Building is part of the general countryside feel.
- Development would switch site from being rural to urban (including the MR117).
- Access onto Clare Lane would urbanise the lane, especially the felling of trees.
- Clare Lane, Mill Street running eastwards from Clare Lane and Winterfield Lane or Lucks Hill unsuitable to accommodate additional traffic.
- Clare Lane has a "pinch point" by the Listed "Gardeners Cottage" where carriageway narrows, the lane has no pavements, crossroad at Couch Green also difficult and Winterfield Lane has no paths or lighting. Car/pedestrian conflicts.
- East along Mill Street is a village road lacking pavements on both sides, with parking at points restricting the route to a single lane. Additional traffic should be avoided especially for pedestrian safety.
- Site is high quality Grade II agricultural land – issues with food security.
- Is the site sustainable? No regular bus services serving the site, nearest regular buses into Maidstone from A20. East Malling village has no shops – only a pub,

church, café and hairdresser. Train services at East Malling are slower and less frequent than West Malling. Site will be car dependent.

Response 3:

- Still object to the principle of development.
- Layout slightly improved – how houses are positioned. Although a reserved matter, there is also now an indication that they would draw on the Millward development at Kiln Barn Lane in terms of design of properties/materials. Would be much more in keeping with the village location.
- Would prefer heavier screening on Clare Lane so that the development is not easily visible – similar to the entrance to Clare Wood Drive. The Site Access Indicative Landscape Strategy okay, but Access Visualisation drawing not.
- Gate leading from Darcy Court – makes sense for this to be closed up with fencing/hedging to prevent pedestrians climbing the gate.
- PROW officer has no objection in principle to the MR117 being used for emergency vehicles. Is the track wide enough to accommodate emergency vehicles safely?
- Do not like to see rural paths urbanised with hard surfacing and lighting. Could form the emergency access via the existing gate.
- Speed surveys indicate that speeding occurs – measures proposed insufficient to slow traffic.
- Street lighting/traffic calming measures will urbanise the lane.
- Extent of highway land needs checking for the proposed Clare Lane path.
- Is path on Clare Lane necessary – will be urbanising? More likely and safer to use MR117.
- Assumes residents will only want to walk towards East Malling – should provide paths/access westwards for likely journeys going to West Malling. No longer possible to get a bus to West Malling via Clare Lane except on a Friday.
- Blacklands (Public Path MR118) only has 2 lights.
- Support proposed financial contribution for speed limit reduction on Mill Street.
- Contrary to applicants submission, the footpaths on route to East Malling station are not on both or one side at least – no pavement in front of the listed horse pond - area is prone to flooding. Pavements are narrow, with bad splays.
- Residents more likely to go to West Malling Station. Traffic assessments suggest the majority of traffic will be westwards, difficult at the bend at Winterfield. Likely more people will drive when they do not feel safe walking.
- No easy disabled access at East Malling.
- Vehicle distribution statistics consider unrealistic.
- Bird survey did not record Tawny Owls or Little Owls, nor Sparrowhawks, all of which are present within Clare Park and Blacklands Conservation Area.
- The site and immediate local area are rich in bird life.
- Dark skies are important. There is limited lighting locally. Parish Council would like more control of lighting.
- Concerned about cumulative loss of BMV Agricultural Land

Response 4:

- No streetlights in Busbridge Close or Clare Wood Drive. Proposed street lights are an urbanising feature.
- Issues with siting of telecommunications equipment on land outside ownership

5.3 West Malling PC:

Response 1:

Strongly object for the following reasons:

- Loss of the open countryside between East and West Malling.
- Unsustainable increase in traffic on Clare Lane, Winterfield Lane and the A20 junction. More traffic movement coming into West Malling via Swan Street.
- Increase in traffic and pedestrians will have serious safety implications as the road is narrow in places with limited visibility.
- Clare Lane is at risk of flooding/is in flood zone 3.
- Loss of Grade 2 agricultural land.
- Land is proposed to form part of the Green Belt extension if agreed
- Lack of infrastructure; GP provision and other services.

Encourage all new developments within the parish to incorporate measures designed to reduce dependency on fossil fuels, measures to reduce water consumption and limit light pollution.

Response 2:

Strongly object for the following reasons:

- Land was proposed to be part of the Green Belt Extension in recent Local Plan and believed to be included in upcoming plan.
- Overdevelopment.
- Harm to setting of Grade II Listed Cobb's Hall.
- Dangerous site access due to narrow road width and speed of motorists.
- Single point of access for emergency vehicles is a significant risk.
- Will place unsustainable pressure on the local transport network. Bicycle and pedestrian journeys do not seem reasonable/evidenced. Underestimates anticipated vehicle movements. Does not reflect additional pressure by approved developments.
- Existing drainage issues adjacent to Darcy Court likely to cause issues.
- Does not provide the level of affordable homes recommended in the Government's current NPPF consultation.

5.4 KCC Highways:

Response 1:

- Access via a single all-purpose vehicular access onto Clare Lane – secondary access required.

- Traffic survey sets-out speeds are in excess of road limit. Request raw survey data is provided.
- Visibility for the access can be achieved in accordance with the observed speeds.
- Road safety audit recommendations all accepted.
- Traffic calming scheme proposed, however have concern with vertical deflection measures.
- Seek amendments to site access to enable larger vehicles to exit the site without overrunning adjacent lanes.
- Applicant proposes upgrades to existing PROW. Seek clarification if they have liaised with KCC PROW Team and whether the path can be lit to make the route more attractive.
- Seek a drawing of crossing facilities by the end of MR117.
- Seek to confirm whether a pathway along Clare Lane to East Malling village has been investigated.
- Schools, a public house, café and recreational facilities are within walking and cycling distance. To access further afield facilities, busier routes less likely to be used by cyclists.
- Train connection at East Malling reasonable, with limited bus services present. Clarification sought on whether operators have been contacted to provide an enhanced service.
- Framework Travel Plan sets-out how the applicant intends to encourage travel by more sustainable means.
- TRICS data selection reflects the sites location. In the AM peak (08:00-09:00) the development is anticipated to generate 69 trips (combined arrivals and departures) and 65 trips in the PM peak (17:00-18:00).
- Majority of traffic expected via the A20 with remaining traffic routing via Lucks Hill, High Street or Lunsford Lane, with approach acceptable.
- Request revised traffic survey assessments from a neutral period.
- Committed development has been accounted for in assessments based upon the TA's within the consented developments.
- Traffic Impact: Site Access junction with Clare Lane (Priority Junction) – confirms that the junction shall operate within capacity
- Traffic Impact: Lucks Hill/Winterfield Lane/Clare Lane/Broadwater Road (Staggered Junction) – revised assessment requested
- Traffic Impact: Winterfield Lane/Chapham Way (Priority Junction) – revised assessment requested
- Traffic Impact: A20, London Road/Lunsford Lane/Winterfield Lane (Signal Controlled Junction) – junction will operate over capacity, owing to marginal worsening conditions a highway-based objection is not considered reasonable or sustainable
- Traffic Impact: Mill Street and High Street (Highway Links) – confirmation of survey age requested.

- Matters relating to the development's internal layout, including parking, turning and servicing will be considered at a later stage.
- Revised Personal Injury Collision (PIC) Record data requested.
- Holding objection raised, requesting information to address points above.

Response 2:

- Applicant contends an emergency access is not essential – pointing towards sites in Swale. Therefore recommend consultation with Kent Fire & Rescue, who if they advise the access is acceptable, can remove highways objection.
- Raw data supporting visibility splays provided and vertical deflection measures removed – acceptable.
- Junction widened to accommodate larger vehicles turning – this reduces vehicle conflicts.
- Pathway along Clare Lane discounted due to adverse arboricultural impacts – do not consider this is sufficient justification.
- Concerns about upgrade of PROW MR117 owing to being unlit and lacking natural surveillance. Request revised pedestrian access strategy.
- Location of pedestrian crossing point provided – considered acceptable.
- Traffic Impact: Lucks Hill/Winterfield Lane/Clare Lane/Broadwater Road (Staggered Junction) and Winterfield Lane/Chapham Way (Priority Junction) – request revised assessments
- Traffic Impact: Mill Street and High Street (Highway Links) – following a review of information, despite some matters, it is not considered that the development would unacceptably impact upon safety or capacity.
- Up to date PIC data provided – request a copy of the D Print.
- Maintain a holding objection, requesting additional information to address the point above.

Response 3:

- A dedicated pedestrian link is proposed along Clare Lane, linking with existing facilities on Mill Street. Approach is appropriate and logical, allowing a direct and all-weather route to the village centre. Works shall need to be provided prior to occupations and via a S278 agreement.
- Off-site highway works subject to an independent stage 1 Road Safety Audit, with all recommendations incorporated.
- Additional traffic surveys have been completed, confirming junctions Lucks Hill/Winterfield Lane/Clare Lane/Broadwater Road and Winterfield Lane/Chapman Way will operate satisfactorily in the assessed future year, without any unacceptable levels of queuing or delays.
- D print previously requested still outstanding.
- Maintain holding objection due to outstanding D print.

Response 4:

- D print provided. Confirms that neither the highway layout nor any defects within it are a contributory factor in any of the recorded collisions.

- Having considered the development proposals and the effect on the highway network, raise no objection, subject to conditions relating to provision of offsite highways works prior to occupation, a construction management plan, provision of specific EV chargers, use of bound surface for first 5 metres from edge of highway, provision of cycle parking, completion of access prior to use commencing and provision and maintenance of visibility splays as submitted prior to site use.
- Series of standard informatives issued.

5.5 KCC LLFA:

Response 1:

- Proposal includes attenuating the wider catchment in an intercepting ditch at the west of the site to infiltrate to ground. The main site will be intercepted via permeable paving discharging to a detention basin and then discharged to an existing surface water sewer to the east of the site. A highway connection at the north of the site will connect to an existing surface water sewer.
- Ask for clarification to be provided with regards to site areas. Advise that discharge of flows leaving the site of 5l/s from the detention basin plus 1l/s from the adoptable highway could be above the QBAR greenfield rate.
- Recommend drainage features are not considerably deep. Recommend geo-cellular tanks are installed beneath the basin or by using safety features to ensure sufficient capacity.
- Infiltration testing and groundwater monitoring conducted where detention basin is proposed, these suggest acceptable infiltration rates, as such sewer connection queried.
- Holding objection raised.

Response 2:

- The majority of the site shall be drained via permeable pavements and a below ground drainage network to an attenuation basin.
- Basin may provide some infiltration, but is predominantly to attenuate flows prior to discharge to a sewer.
- A secondary discharge is proposed to the highway drain within Clare Lane.
- Estimated percentage impermeability of developable area with creep is low – queried.
- Discharge rate from the site is now in excess of QBAR. Northern sector shows potential for infiltration.
- Request testing is carried out to confirm whether infiltration is suitable for discharge of surface water for the northern access road. If not, there is a public surface water sewer on the far side of Clare Lane, with the last option of discharge to a highway drain.
- Since 10.05.2022, EA's climate change allowances have been updated. Seek a drainage design that adheres to this.
- Request previous comments regarding basin water depths are addressed
- Holding objection raised.

Response 3:

- Subject to advisories, recommend approval with conditions.
- Satisfied with impermeable area and allowance for creep.
- Climate change allowances adhere to current guidance.
- Cellular storage has been installed beneath the basin, adhering to guidance.
- Note that the discharge of water from access road has a range of methods for discharge.
- Recommend conditions for detailed sustainable drainage design and drainage verification.

5.6 KCC Heritage/Archaeology:

- Site lies in an area of potential associated with prehistoric and Roman activity, with settlement and villa sites known in the area.
- Site and its immediate surrounding fields have not had a formal investigation.
- Site lies to the west of East Malling - a Medieval settlement and may have been an early medieval community. There are historic post medieval farms around the site and remnant archaeological landscape features may survive on site.
- Heritage Statement provides a brief summary of the archaeological potential and is acceptable. Conclusion of low potential is likely due to insufficient information.
- Recommend an archaeological condition.

5.7 KCC Ecology:

Response 1:

- Ecological survey carried out in 2021 – seek confirmation that conclusions of ecological surveys are still valid.
- Survey provides a good understanding of the site and has detailed Grassland with Meadow vetchling and pyramid orchid recorded, hedgerow considered to be priority habitat, at least 6 species of foraging bats, trees with low bat potential, potential for harvest mouse, hedgehogs and invertebrates, suitable habitat for breeding birds and a breeding population of common lizards.
- No breeding bird surveys undertaken – clarification or submission of survey requested.
- Reptile population to be retained on site. Supportive of this, however as the receptor site will be located in the open space – seek information that addresses concerns about potential conflict between the management requirements.
- Ecological report has recommended a BNG assessment is carried out. Request a BNG assessment is carried out - where Defra biodiversity metric is used a minimum of 1% net gain has previously been accepted under appeal ruling.
- Ecological assessment has made recommendations for enhancement features. Seek confirmation regarding the minimum number of enhancement features.

Response 2:

- The ecological survey work provides a good understanding of the ecological interest of the site, confirming the ecologists are satisfied the 2021 survey is still valid.

- No evidence of an active badger sett was recorded on site however as badgers are highly active an updated badger survey will need to be carried out as part of the mitigation strategy.
- 43 species of birds were recorded – 9 confirmed and 29 possible/probably breeding. Majority of birds recorded were found within the site boundaries and very few ground nesting birds were recorded. Birds were recorded foraging within the site. The majority of the site boundaries will be retained and those within open space can be enhanced. Any management plan will need to ensure that hedgerows will be managed to create dense/thick hedgerows.
- The reptile population will be retained on site, which is supported. The receptor site will be located in the open space - concerned there will be a conflict between the open space management and reptile requirements. Advise that the LPA must be satisfied that this management will be appropriate.
- Grassland with Meadow vetchling and pyramid orchid recorded within the south of the site, to be retained. Issues can be addressed in the management plan.
- Bats recorded on site but largely within the site boundaries which will be retained. Management of the open space will ensure that there are foraging / commuting opportunities. Lighting will have to be designed to minimise impacts.
- BNG assessment detailed that the proposal will result in a loss of nearly 6% for habitats. As the application was submitted prior to the commencement of mandated BNG, 10% is not required however a minimum of 1% net gain has previously been accepted under appeal.
- Loss will be higher than that detailed within the metric if the condition of the grassland habitats cannot be achieved, especially due to recreational pressure and reptile population management requirements.
- Majority of trees should be included as traditional orchard within the metric. It may not be possible to plant that many trees. Advise TMBC consult their tree officer.
- Proposed habitat plan using UK Hab classification to be provided to understand where habitats will be created and advise if achievable.
- Agree with metric baseline but onsite proposed habitat baseline will need to be updated. Could be done via reserved matters application. Prior to determination need to agree what mechanism will be used to secure the offsite units/credits
- Ecological assessment has made recommendations for enhancement features. Seek confirmation regarding the minimum number of enhancement features. Can be submitted via a condition/as part of the reserved matters.
- Recommend conditions for a detailed mitigation strategy, lighting plan, management plan and ecological enhancement plan.

Response 3:

- Comments above re-stated
- To address conflict between open space management and reptile mitigation, a plan details that a knee-high rail will be installed to deter public access in to this area. Are supportive of this but also recommend that a sign is installed.

- Site wide management plan must demonstrate implementation of southern boundary management for reptiles, by way of tussocky grassland and log piles managed on a 3-year cutting rotation.
- Reptile mitigation area must be created and established prior to the reptile translocation commencing.
- Habitat plan raises concerns about the proposed habitat calculations and therefore it may not be possible to achieve the BNG detailed within the Metric.
- The landscaping plan details that an orchard will be created but the proposed habitat plan shows that area as scrub. If orchard instead of scrub is created the BNG loss for habitat increases.
- Not clear where the 125 trees in the metric will be planted as a lot of the trees within the landscaping plan have been depicted as scrub within the proposed habitat plan. If there is a decline in tree numbers, BNG value will decline.
- Habitat plan raises questions about the location of the proposed and retained linear features as all the hedgerows and line of trees are not depicted within the submitted plan. If hedgerows or lines of trees cannot be retained or created within the site, BNG of over 10% for linear features cannot be achieved.
- Likely that the loss will be higher than that detailed within the metric.
- Due to the anticipated recreational pressure and management requirements for the reptile population, it may not be possible for moderate condition grassland to be achieved. Report detailed this can be addressed within the LEMP. This could be the case but on-going monitoring must inform updates of the management plan to ensure the habitat creation can be implemented.
- Agree with the baseline of the metric but the onsite proposed habitat based line will need to be updated.
- This is something that could be addressed via a legal agreement however it would have to be agreed as part of the S106 (or similar) exactly what the minimum percentage had to be achieved as any off site BNG.

5.8 KCC Economic Development:

Response 1:

Developer contributions sought as follows to offset the demand from the development:

- Primary Education £811,911.00 Towards expansion of primary schools in the East Malling and / or neighbouring Primary Education Planning Groups serving the development.
- Secondary Education £838,078.50 Towards the establishment of a new 6 FE Secondary School as identified at Broadwater Farm OR An alternative new secondary school in either the Malling non-selective and Maidstone & Malling selective, or Tonbridge & Tunbridge Wells non-selective education planning groups.
- Secondary Land £717,895.50 Towards the land acquisition cost for the new 6 FE Broadwater Farm Secondary School, or alternative site land for a new secondary school in either the Malling non-selective and Maidstone & Malling selective, and Tonbridge & Tunbridge Wells nonselective education planning groups.

- Special Education Needs & Disabilities (SEND) £83,974.50 Towards the provision of additional SEND places within new and existing facilities serving the development.
- Community Learning and Skills £5,131.50 Towards additional equipment and resources for adult education centres serving the development, including outreach provision.
- Integrated Children's Services £11,107.50 Towards additional equipment and resources for the Integrated Children's Services including outreach provision to serve the development
- Library, Registrations and Archives Service £9,394.50 Towards additional resources, equipment and book stock (including reconfiguration of space) at local libraries serving the development including Larkfield and West Malling Libraries
- Adult Social Care £27,132.00 Towards Specialist care accommodation, assistive technology systems and equipment to adapt homes, adapting Community facilities, sensory facilities, and Changing Places within the Borough
- Waste £8,170.50 Towards additional capacity at HWRCs serving the development.
- All Homes built as Wheelchair Accessible & Adaptable Dwellings in accordance with Building Regs Part M 4 (2)

Response 2:

- Contributions for primary education removed. All other figures remained the same.

5.9 KCC Public Rights of Way and Access Service:

Response 1:

- Public Footpath MR117 would be directly affected by the development, with the wider network impacted due to increase of use.
- There is incorrect information within the application regarding the legal use of MR117 as cycle access which impacts the sustainable access strategy (Transport Assessment, Travel Plan and Design & Access Statement).
- Request condition for PROW Management scheme/improvements to onsite PROW.
- Request financial contributions for improvements to PROW network in the area.
- Raise a holding objection.

Response 2:

- There is confusion regarding Public Footpath MR117 and the management of and opportunities it presents, in terms of sustainable transport, to the development.
- Require clarification of what is meant by 'upgrade' and definitions used throughout submission.

Response 3:

- Note the changes made and request 'upgrade' is amended in application documents for clarity.
- Unable to agree use of footpath as providing cycle access.
- Will be providing S106 costings shortly.

Response 4:

- Satisfied with documents not being amended but Transport Assessment being read in conjunction with the Transport Addendum.
- Confirm KCC PROW and Access Service have no objection to proposal, subject to comments regarding MR117 cycle use being agreed and a S106 agreement.

Response 5:

Request developer contributions as follows:

- Restricted Byway MR118 137m stretch new surface overlay. Width 3.5m x 137m length x £40persqm surface = £19,180
- Public Footpath MR117 offsite to East of development. 170m Mill St to eastern red line boundary, repair tarmac section as necessary, surface to redline to provide improved surface. 170m x width 2m x £40persqm = £13,600
- Public Footpath MR117 offsite to West of development 210m from red line boundary to Broadwater Road, 200m from Broadwater Road to Lucks Hill, 410m length, improve with crushed stone or similar to counter "boggy" surface. Install new signage to aid wayfinding for new residents in particular to aid off road connectivity towards West Malling. 410m x 2m width x £25persqm = £20,500
- PROW Management Fee of 10 % = £5,328
- TOTAL of £58,608

Seek a "smooth" transition from within site to offsite, so engagement regarding surfacing detail would be essential

Request that the trigger for the contributions is prior to first occupation to ensure that the PROW routes are improved for use by first residents

Response 6:

Amended contribution requested following identification of error:

- Public Footpath MR117 offsite to West of development 220m from red line boundary to Broadwater Road, 200m from Broadwater Road to Lucks Hill, 420m length, improve with crushed stone or similar to counter "boggy" surface. Install new signage to aid wayfinding for new residents in particular to aid off road connectivity towards West Malling. 420m x 2m width x £25persqm = £21,000

5.10 KCC Minerals and Waste:

Response 1:

- Application site overlaps with land-won safeguarded mineral (Hythe Formation (Ragstone), the Sandgate Formation and the Folkestone Formation), safeguarded by Policy CSM 5: Land-won Mineral Safeguarding.

- Planning statement considers this matter with a submitted Mineral Assessment.
- Do not agree with use of 100m buffer zone.
- Agreed that the area of the Folkestone Formation within the application area is too limited to be subject to a viable prior extraction.
- The Sangate Formation has not been exploited in Kent in the past, also being only a small part of the overall mineral bearing land in the application area.
- Borehole results indicate this part of the Hythe Formation is not likely to yield an economic deposit.
- Concluded that all three safeguarded mineral types can have exemption criterion 1 of Policy DM 7 invoked in the determination of the application.
- KCC has no land-won minerals or waste management capacity safeguarding objections or further comments.

Response 2:

- Borehole data and analysis shows there is a high probability of non-viability of these minerals.
- KCC has no land-won minerals or waste management capacity safeguarding objections or further comments

5.11 Environmental Health:

Response 1:

- *Noise* – seek confirmation that the number of train passes during the noise survey are the same now.
- *Air Quality* – No comment.
- *Contaminated land* – Preliminary Geo-Environmental Risk Assessment adequately reviews the history and environmental setting. No significant sources of contamination were identified. Due to site size and potential for overlooking of contamination sources, recommend a contamination watching brief condition.

Response 2:

- Train levels have been confirmed to remain similar to those noted at the time of the original assessment. The assessment satisfactorily demonstrates the proposed development can be developed with noise mitigation.
- An updated report will be required at detailed design stage to provide specifics.

Response 3:

No additional comments

5.12 Conservation Officer:

Response 1:

- Reviewed the application drawings and supporting documents, in particular the LVIA and the Heritage Statement. Generally agree with these assessments from a heritage perspective.

- Do not consider the railway line to be an urban feature. Believe that the assertion this is an urban feature is over played. The feature is relatively normal and low impact with little or no urbanising qualities.
- There is an assertion that there is a 'hard edge' to the mill street edge of the village. Believe the assertion is over played and that the current village edge is neither hard nor particularly urban in form except the short boundary to Darcy Court although even this has soft boundaries that will continue to develop.
- The Oast House retains a strong connection with the open fields, it sits on the boundary of the field. The Oast is an agricultural building and its connection with the open fields improves its setting and gives the building context. The proposal will result in the oast being 'town locked'. Oast houses are generally considered to be non-designated heritage assets. Believe there is a greater level of harm to the setting of the conservation area and there is a greater connection between the Mill Street Conservation Area and the fields to the west than stated in the reports.
- Clare Road is very enclosed by vegetation heavy banks to each side. Entrance will have a significant impact on this sense of enclosure. Road forms the edge of the conservation area and loss of enclosure would harm the character of the lane. Suggest reducing opening size or having a cutting rather than sloped edges.
- Views from western end of the footpath are enhanced by the openness of the fields. There is little evidence of the hard edge, with the oast house roof evident, the soft boundary edges, the scrub lined railway track and the existing natural field boundaries and the tree'd backdrop beyond the houses making the view eastwards from the path typical of a rural village edge.
- Believe the suggested landscaping proposals will only have a lower level of mitigation in screening / greening the proposed development, with the development being abundantly visible in views from the west and are likely to increase the urban nature of the new village edge compared to the existing. Likely only truly assessed once house designs are provided.
- Level of harm to heritage mostly as stated in the heritage statement. The heritage statement underplays the level of harm to both conservation areas. It is agreed that it is less than substantial, suggest it is greater than the low end being low to mid on the scale instead.

Response 2:

- Have reviewed drawing 1746/01 regarding works associated with footpaths and signage.
- These alterations would not be considered to have a harmful impact on the character of the conservation area or the setting of adjacent Listed Buildings.
- Care will need to be taken to ensure the footpath surfaces are not visually prominent or intrusive.

Response 3:

- Have reviewed 'Heritage Note' and 'Landscape Response letter', alongside original comments. The documents affirm the applicant's original assessments and provide some additional interpretation. Neither document provides any strong additional arguments beyond the original submissions
- Happy for original comments to stand and overall assessment of harm remains as stated, less than substantial harm at the low to mid end of the scale.
- Confirm that reference was made to the Mill Street East Malling Conservation Area Appraisal – note that the appraisal is quite old and that there has been development along the western and southern edges since the appraisal was adopted and therefore some of the content of the appraisal needs to be reassessed in this context. The appraisal also misses an assessment of the setting of the Conservaton Area. Only significant view identified being westwards towards the development, which shall be mostly retained owing to the landscaped corridor being provided.
- Setting of all listed buildings were considered in previous response. Impact on Cobbs Hall will not be harmful owing to the separation and intervening landscaping.
- Southern boundary of Clare Park and Blacklands Conservation area is well treed and the edges of Clare Lane are covered in vegetation of a dense nature. Site is also located behind the gardens of the properties on Clare Lane to some degree. Intervisibility between the site and CA will be very low, even in the depths of winter. The setting of Clare Park and Blacklands will therefore not be impacted in a harmful manner.

5.13 Tree & Landscape Officer:

- The Arboricultural Assessment explains that tree groups G1, G2 and G9 and parts of G5 and G8 will be removed to facilitate the development. Seek appropriate replacement planting to offset the loss.
- Replacement planting at entrance of the development site will be important to provide natural screening and balance the vegetation on the opposite side of Clare Lane.
- Planting should be dense enough to screen the proposed new housing from Clare Lane and have a natural appearance (Site Access and Indicative Landscape Strategy appear too formal and do not provide a dense screen).
- Recommend conditions for:
 - Levels
 - Details of services in relation to trees
 - Landscaping
 - Tree protection and method statement
 - Tree felling and pruning specification
 - Landscape maintenance
- Advise that climate change should be a consideration when producing the finalised landscaping details of the site.

- The proposed footpath being predominantly on the southern side of Clare Lane is a significant improvement that should help with retention of the roadside trees on the northern side. Some trees on/adjacent to Highways land on the southern side of the roadway may be lost, however, this is a far better outcome than losing the better quality and more significant trees on the northern side. Where the proposed footpath does cross to the northern side adjacent to T21, T26/27 and Groups G12 and G13, need full details of the proposed new no-dig path, including existing and proposed levels, any drainage and any mitigation measures to offset the impact.
- With regard to the comments by the KCC ecologist about BNG calculations for orchard trees, please confirm where stated numbers come from. Proposed new planting needs to be capable of successful establishment and growth to provide long term benefit.

5.14 Leisure Services:

No objection subject to the applicant entering into a S106 agreement to provide contributions towards off-site open space provision including the provision or enhancement within 3 miles of the development of:

- Existing outdoor sports pitches (Clare Park)
- Parks and gardens (Leybourne Lakes path improvements)
- Natural green spaces (woodland enhancement at Winterfield Lane).

5.15 Waste Services:

Advice and guidance provided on amount and design of waste storage. Bins to be stored within property boundary. Collection areas to be sited no more than 25 metres from the vehicle, with storage areas able to accommodate 240 litre bins, a 55 litre recycling box and a 22 litre food waste bin for each dwelling, with additional space for communal bins. Consideration within the design must be made for refuse vehicle access to bin stores and the site. *Specific details of container sizes and allocations for different property types stated.*

5.16 Housing Services:

- Submission details that 40% affordable housing will be provided.
- Seek to agree a mix within the outline permission to ensure any changes which may be needed at RM stage are required to be fully set out, justified and agreed.

5.17 Southern Water:

- Request details of the anticipated occupation dates and build out rate to plan infrastructure works.
- Proposed development foul sewage flows indicate there would be an increased risk of foul flooding, therefore infrastructure to mitigate this will be provided by Southern Water. Southern Water will liaise with the developer.
- Request a planning condition for the occupation of development to be phased/aligned with the Southern Water delivery of wastewater infrastructure.
- Can provide surface water disposal for the development. Require a formal application from developer.

- SuDS can be adopted by Southern Water. If not adopted, applicant will need to ensure sufficient maintenance regimes are in-place.
- Request a SuDS maintenance condition.
- Highway drainage connection will require agreement of the highway authority.
- Request a foul and surface water drainage condition be attached.

5.18 Natural England:

Response 1:

- No objection - Based on the plans submitted, consider the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.
- *Standard guidance given in relation to National Landscape and SSSI Risk Zones.*

Response 2:

- Advice provided in previous response still applies/proposed amendments unlikely to have significantly different impacts than original proposal.

5.19 Kent Wildlife Trust:

- No comments received.

5.20 Kent Police:

- Applicants/agents should consult Designing out Crime Officers (DOCO's) to address Crime Prevention Through Environmental Design (CPTED) and incorporate Secured By Design (SBD).
- Recommend the applicant follows SBD guidance to address designing out crime to show a clear audit trail for Designing Out Crime, Crime Prevention and Community Safety and to meet Local Authority statutory duties.
- Recommendations for the layout and design provided.
- Site security is required for construction phase.

5.21 NHS CCG:

- Proposal will generate approximately 360 new patient registrations for GPs and additional demand for healthcare.
- Request a total of £129,600 towards refurbishment, reconfiguration and/or extension of existing general practice and other healthcare premises or new premises for general practice or healthcare services provided in the community.

5.22 Network Rail:

Response 1:

Due to the close proximity of the proposed works to the operational railway, request that, where applicable, the developer follows the Asset Protection informatives.

Response 2:

- No additional comments to make.
- Refer to previous response

- Request the applicant engages Network Rail's Asset Protection and Optimisation (ASPRO) team prior to works commencing.

5.23 Sport England:

- Does not fall within statutory remit, or non-statutory remit
- Standing advice provided.

5.24 Active Travel England:

- Refer to standing advice.

5.25 National Highways:

Response 1:

- Recommend planning permission not be granted until 27 February 2024 because proposals have the potential to impact on the strategic road network (SRN).
- Require further information so that an informed decision can be made in relation to the impacts of the development on the strategic road network.
- Request information in relation to trip rates, trip generation, vision for the development, trip distribution/assignment analysis and a travel plan linking to the vision, existing infrastructure and targets.

Response 2:

- Further information presents a trip distribution and assignment methodology identifying the number of development trips which are expected to use SRN junctions M20 J4 and J5. Satisfied with the methodology, and conclude that no junction assessment analysis is required.
- Proposals would not have an unacceptable impact on the safety, reliability, and/or operational efficiency of the SRN in the vicinity of the M20 subject to conditions for a Travel Plan and Construction Traffic Management Plan.

Response 3:

- Amendments do not alter the impact of the proposed development on the SRN.
- Refer to previous response.

5.26 Kent Fire & Rescue:

Response 1:

- Emergency access road would represent the optimum arrangement. Kent Design Guide sets out that where dwellings range between 50 and 300, ideally the site access road has two points of access or is a loop with a short connection to a single point of access and a secondary emergency access link.
- As the Kent Design Guide is guidance, have no legislation to enforce this. Therefore, would not raise an objection to the development.
- Failure to follow this recommendation is contrary to Fire Service Advice.

Response 2:

- Addendum to Design & Access Statement shows there is an emergency access road, in accordance with the Kent Design Guide.

- Fire Service emergency access to the site appears satisfactory.
- As this is an outline application, cannot comment on access to the individual residential properties. To be assessed at a later stage.

5.27 Private Reps: 18 letters despatched originally (38 during re-consultation to notify those who commented originally), site notices and press notice (consultation undertaken twice due to receipt of further information and amended site address). Responses received: 4X(raising no objection)/135R(raising objection)/0S(in support), summarised as follows:

- Question the need for the housing development/what benefits does it bring to the area?
- Concerned about the siting of the development and the impact on the area around the school entrance
- Issues with additional traffic affecting the health and safety of students. Existing roads are hazardous, traffic calming will only marginally reduce the risks.
- Existing roads inadequate to serve construction and this development – narrow, poor visibility, lack of capacity. As existing, roads are busy/congested, especially at school/peak times. There have been several accidents recently.
- Clare Lane a busy road as existing, with speeding an issue, no path, blind narrow bends (junction with Winterfield Lane and corner with Mill Street), is narrow, with road dangerous for pedestrians and cyclists – contrary to policy SQ8 and paragraph 111 of NPPF. Mill street busy/congested, narrow, bendy, with parked cars and a dangerous bend. Winterfield lane, Broadwater Road, Stickens Lane, High Street, New Road/High Street/Chapel Street junction, Swan Street also suffer similar traffic issues, some without paths. A20 busy.
- Development will increase traffic on Clare Lane, Winterfield Lane and Mill Street/East Malling/generally, will be worse with cumulative effect of other developments.
- Developer has not considered other development locally and their traffic
- Proposed access is dangerous/is where cars travel fastest/has limited visibility/will result in more accidents.
- Access likely to be different following detailed surveys – 40 Acres Development. Levels have not been considered.
- Increased traffic results in concerns about highway safety and damage to roads.
- Unrealistic expected vehicle movements, unlikely expected number of cars from the development and inaccurate existing highways speeds.
- How will additional traffic be managed in the interests of highways safety?
- Street lighting and traffic calming will negatively affect existing residents, encourages speeding, result in light pollution, harms environment, reduces privacy, not needed and urbanise the rural lane, contrary to Policy DC6.
- Inaccuracies within Travel Plan/planning statement
- Traffic calming/lighting considered ineffective. Suggest speed cameras.
- Traffic calming welcomed. Street lighting will help drivers see pedestrians.
- Traffic calming shows access is not suitable.

- Suggest footpath to the north side of Clare Lane and chicanes to increase safety.
- Request expected traffic numbers towards West Malling.
- Insufficient access as no secondary access - contrary to Kent Design Guide.
- Emergency access road does not meet government standards/Building Control requirements, is an unadopted road, is too narrow, there is insufficient space to widen the path, will result in trespassing and vehicle damage and will urbanise the area. Insufficient to allow vehicular and pedestrian access at the same time, changes would be unacceptable.
- Existing bus services are infrequent/will not be used.
- Railway stations too far from the site/no roadside footpath towards West Malling, therefore does not enable people to walk to them.
- West Malling Station used more by residents as the trains are more regular and have more destinations.
- West Malling a town with more facilities than East Malling – people more likely to walk and travel there.
- Public transport being ineffective means development is contrary to policy CP25 and Kent Design Guide.
- Development to be car dependent.
- Existing trains too busy/oversubscribed.
- Air pollution already an issues. Noise, light and air pollution from additional traffic, harming health.
- Seek for construction vehicles to access the site via Winterfield Lane – not along Mill Street.
- Increased animal fatalities due to increased traffic.
- Exposed gas pipe on Listed Building on Clare Lane maybe hit.
- Increase parking in West Malling – should provide contributions to pay for this.
- Section of land where footpath is proposed along Clare Lane has been maintained by residents historically.
- Proposed path along Clare Lane – unnecessary path/stealing land unnecessarily, resulting in boundary disputes, issues with service workers, shortens driveways, results in on-street parking, reduces privacy, increases noise/interruption, harms wildlife, increase pollution, impacts character of area and reduces property value.
- Suggest upgrade permissive path behind trees or provide a path along north side of Clare Lane.
- Proposed pedestrian crossing point unsafe.
- Request path is retained open during/after works.
- MR117 unsuitable for cycling – becomes dangerous when crossing Broadwater Road. Footpath unusable after rain and unlit, so will have to walk in the road. Contrary to policy CP2.
- People unlikely to follow rule of dismounting bike when using MR117.
- Unsustainable pedestrian access strategy, contrary to paragraph 93e of NPPF.
- Access road and development will negatively impact MR117, loss of views of East Malling and countryside.

- Upgrades to MR117 and surrounding development would urbanise this area, are not needed, contrary to paragraph 100 of NPPF.
- Path upgrades on element towards East Malling, are needed towards West Malling instead, which is not suitable for people who are not hardened walkers and is unlit/unsafe at night.
- Path is historical, possibly a roman road?
- Loss of historical black soil surface of pathway
- Believe path was historically used as bridleway by horse riders – request that the development upgrades the pathway to a bridleway.
- Access strategy unsuitable for those with mobility scooters.
- Insufficient infrastructure/amenities as existing/to cope with proposed demand (GPs, hospitals, dentists, schools, transport, water, sewage, emergency services, postal, clinics, care homes, shops). Contributions will not resolve issues, just sidestepping issues, should deliver on-site.
- No contribution for bus services – this should be sought.
- Consider these are not the correct houses in this location. Should focus on brownfield/high-rise town/centre development.
- Who will maintain the orchards and open spaces?
- Overlooking/loss of privacy.
- Loss of a view
- Noise pollution/interruption during construction.
- Increased crime.
- Damage/loss of village community.
- Roman Road possibly crosses the site.
- Affordable homes are not properly affordable, despite great need for affordable properties in the Borough.
- Request affordable homes are delivered
- Reduction in property value.
- Homes not for local people but those coming down from London. Demand not from the local area.
- Local mobile home developments are numerous and not counted in housing figures/not controlled by TMBC
- Loss of open and green space, harming health/wellbeing.
- Harmful loss of grade 2 agricultural land, contrary to paragraph 7 of NPPF. What is the effect upon the remaining land – will this still be economic to farm?
- Light pollution.
- Noise pollution.
- Environmental pollution.
- Damage to water table.
- Proposal speculative/for profit/greedy/seeking land uplift to sell the site.
- Detail will only be provided later-on, when the chance to influence the future of the site is lost.
- Difficult to provide comments - much information, but limited detail.
- Question how simple applications require more detail than this application.

- Sites and area floods as existing. Increased drainage/flood risk, on and offsite. Concerned about drainage basin ability to store water. SuDS basin not a benefit – acknowledge the site issues with flooding.
- Concern about sink holes
- Groundwater close to the surface – impact on water quality.
- Reduced quality of life.
- As of yet to see the impact of 40 Acres – how can area cope with further housing?
- Amazing that that 150 homes maybe acceptable when it difficult to get permission for Darcy Court/has many restrictions placed on it. What has changed?
- Previous call for sites as part of local plan suggested site was not sustainable.
- Premature development ahead of the Local Plan
- Damage to archaeology.
- Existing site important for wildlife, plants, fungi, etc.
- Reports underestimate existing biodiversity onsite
- Harm to/loss of biodiversity – plants, animals, habitat, environmental harms
- Access would result in a harmful loss of trees
- How would the biodiversity net gain be achieved? Better biodiversity levels as existing.
- Should carry out small mammal, insect and invertebrate surveys.
- Cannot see how biodiversity net gain can be achieved/offsetting the harm away from the site will not be appropriate.
- Site was previously proposed as green belt, and likely in the upcoming plan. Green Belt extension highly supported.
- Site is outside the built confines – contrary to CP11.
- Development not required in the local plan
- Footpath would urbanise the village.
- Urbanisation/too dense/not in-keeping/damage to character of the area/loss of historic East Malling.
- Design not appropriate – suburban.
- Overdevelopment/too dense.
- Harm to Conservation Areas, harm to Mill Street CA contrary to paragraph 197c of NPPF.
- Harm to Listed Building settings due to visibility from the site (Weir Mil, Cobbs Hall)/Conservation Areas.
- Harm to non-designated heritage assets due to visibility from the site – Darcy Court Oasts.
- Harmful to character and history, contrary to policies CP24, SQ1 and paragraphs 124, 130 and 174 of NPPF.
- Urban sprawl/overdevelopment as a result of a many developments in the vicinity of East Malling – loss of character, agricultural/rural land and identity.
- Too much development in this part of the Borough, other areas having far less.

- Loss of green gap between East and West Malling, merging with Maidstone as a result of previous developments – contrary to CP5.
- Development in countryside, contrary to Para 3 of CP1 and policies CP6 and CP14, alongside paragraph 174b of the NPPF.
- Existing site has important landscape views. These would be lost as a result of the development.
- Back garden development, not integrated into existing built environment.
- Proposed landscaping proposals not accurate. Request more screening on eastern boundary. Screening of railway not needed.
- Proposed benefits will not benefit the local community.
- Proposed funding proposals not detailed within the submission.
- Insufficient community engagement.
- Consultation invalid – closing date not published on the website.
- Contrary to NPPF economic, social and environmental objectives
- Proposal contrary to NPPF paragraphs 7, 93, 100, 111,112, 124, 130, 174, and 197, alongside policies CP1, CP2, CP5, CP6, CP11, CP14, CP24, CP25, SQ1, SQ8 and DC6. Out of date policies still considered to carry weight as long as NPPF conforming. Appeal decisions from TMBC and Sevenoaks of relevance. Conflicts with policies outweigh benefits of the proposal.

6. Determining Issues:

Policy and Other Considerations

6.1 Prior to the consideration of the proposal, it should be noted that the Government has concluded a consultation into revisions to the NPPF. These revisions to the NPPF therefore do not carry any weight at this stage and the following assessment is based on the contents of the current December 2023 NPPF as well as policies and guidance listed below:

- [National Planning Policy Framework \(NPPF\) 2023 \(December\)](#).
- [National Planning Practice Guidance \(NPPG\)](#)
- [Tonbridge and Malling Borough Core Strategy 2007 \(TMBCS\)](#):
 - Policy CP1 Sustainable Development
 - Policy CP2 Sustainable Transport
 - Policy CP5 Strategic Gap
 - Policy CP6 Separate Identity of Settlements
 - Policy CP9 Agricultural Land
 - Policy CP10 Flood Protection
 - Policy CP13 Other Rural Settlements
 - Policy CP14 Development in the Countryside
 - Policy CP17 Affordable Housing
 - Policy CP24 Achieving a High Quality Environment

- Policy CP25 Mitigation of Development Impacts

The Core Strategy is now time expired, however not all policies contained within it are out of date. The [Core Strategy Policies Document](#) sets out the weight of each policy based on relative conformity with the NPPF.

- [Managing Development and the Environment Development Plan Document 2010 \(MDE DPD\)](#):
 - Policy CC1 Mitigation - Sustainable Design
 - Policy CC2 Mitigation - Waste Minimisation
 - Policy CC3 Adaptation - Sustainable Drainage
 - Policy CC4 Adaptation - Winter Water Storage
 - Policy NE1 Local Sites of Wildlife, Geological and Geomorphological Interest
 - Policy NE2 Habitat Networks
 - Policy NE3 Impact of Development on Biodiversity
 - Policy NE4 Trees, Hedgerows and Woodland
 - Policy SQ1 Landscape and Townscape Protection and Enhancement
 - Policy SQ3 Historic Parks and Gardens
 - Policy SQ4 Air Quality
 - Policy SQ5 Water Supply and Quality
 - Policy SQ6 Noise
 - Policy SQ7 Health and Well-being
 - Policy SQ8 Road Safety
 - Policy SQ9 Crime and Disorder
 - Policy DC6 Rural Lanes
 - Policy OS3 Open Space Standards
 - Policy OS4 Provision of Open Space
 - Policy OS5 Green Infrastructure Network
 - Policy OS6 Open Space Accessibility and Safety
- [Kent Minerals and Waste Local Plan \(2020\) \(KMWLP\)](#):
 - Policy CSM5 Land-won Mineral Safeguarding
 - Policy DM7 Safeguarding Mineral Resources
- [Affordable Housing Supplementary Planning Document \(SPD\)](#) and [Affordable Housing Protocol](#)
- [Kent Design SPD \(Kent Design Guide\)](#)
- [Kent Vehicle Parking Standards \(IGN3\) and \(SPG4\)](#)
- [Mill Street, East Malling Conservation Area Appraisal \(CAA\)](#)
- East Malling Village Design Statement

Principle of Development

- 6.2 The Council cannot currently demonstrate an up-to-date five-year supply of housing when measured against its objectively assessed need (OAN). In the absence of a five-year supply of housing, it is necessary to apply the presumption in favour of sustainable development as set out in paragraph 11 of the NPPF. 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.”*
- 6.3 In undertaking this exercise, the adopted development plan must remain the starting point for the determination of any planning application (as statutorily 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 must be an exercise to establish conformity between the development plan and the policies contained within the Framework as a whole and thus ultimately the acceptability of the scheme for determination.
- 6.4 In terms of the principles of the development in relation to the adopted development plan, policies CP5, CP6, CP13 and CP14 are the most important to the determination of this application, due to its specific locational characteristics outside, but close to the rural settlement of East Malling. However, as the development relates to the provision of housing, these policies are considered to hold significantly diminished weight and to be out of date, pursuant to footnote 8 of the NPPF because the LPA cannot demonstrate a 5-year supply of housing land.
- 6.5 Footnote 7 of paragraph 11 of the NPPF defines ‘the policies’ as mentioned above at paragraph 11 of the NPPF to include those relating to a number of protections and constraints. Included in this list are designated heritage assets and areas at risk of flooding. It is therefore necessary to consider the development proposals against these restrictive policies in order to establish whether the presumption re-emerges to be applied in this case. These are considered in turn below.

Heritage assets

6.6 Paragraph 200 of the NPPF states that:

“In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.”

6.7 Paragraph 201 details that:

“Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal.”

6.8 In terms of considering potential impacts arising from development proposals, paragraphs 205, 206 and 208 explain:

“205. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.”

“206. 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.”

“208. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”

6.9 In relation to non-designated heritage assets, paragraph 209 sets out that:

“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced

judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”

6.10 Annexe 2 of the NPPF defines the setting of a heritage asset as being:

“The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.”

6.11 It must also be remembered that the LPA has statutory duties placed on it by the [Planning \(Listed Buildings and Conservation Areas\) Act 1990](#). Section 66(1) of the 1990 Act requires the decision maker to have special regard to the desirability of preserving Listed Buildings or their setting or any features of special architectural or historic interest that they possess. Section 72(1) of the 1990 Act similarly requires the decision maker to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

6.12 Additionally, policy SQ3 of the MDE DPD explains that in relation to historic parks and gardens:

“Development will not be permitted where it would harm the overall character, integrity or setting of the Historic Parks and Gardens identified on the Proposals Map and listed in Annex SQ3, or which might prejudice their future restoration.”

6.13 The proposed development site is within the setting of heritage assets by way of multiple Listed Buildings, Mill Street East Malling CA, Clare Park and Blacklands CA and non-designated heritage assets (including Darcy Court Oast and the Historic Park and Garden of Clare House). A small slither of the roadside verge in the north-east corner of the site falls within the Clare Park and Blacklands Conservation Area.

6.14 The land to the north (including Clare Lane) lies within the Clare Park and Blacklands Conservation Area (CA), which extends northwards to Winterfield Lane, and south eastwards to Blacklands. The dense woodland belt on the northern side of Clare Lane means that there is very limited intervisibility between the site and the interior of Clare Park, however views of the northern-most part of the site are obtainable from the CA along Clare Lane.

6.15 The Mill Street CA lies to the east of the site, incorporating the houses in Darcy Court, and extending south eastwards along Mill Lane. There is intervisibility between the CA and the site from PROW MR117 and sections of Darcy Court.

6.16 There are several Listed Buildings in the vicinity of the site. Westbrook House on the corner of Mill Street and Darcy Court, 148-152 Mill Street, the Office Building at Invicta Works (155 Mill Street) and Elizabeth Smiths Almshouses Mill Street (all Grade II Listed) are all located to the east of the site. There are some intervening views of the site from Westbrook House, along the public footpath westwards. 148-

152 Mill Street lacks clear intervisibility, whilst the Office Building at Invicta Works has limited intervisibility. Elizabeth Smiths Almshouses has no intervisibility.

- 6.17 To the north of the site on Clare Lane, are the Grade II Listed Old School Cottages, and Lyme Cottage, also Grade II Listed. There is no intervisibility between the site and these buildings, due rear gardens and intervening vegetation. The Grade II Listed Blacklands Barn is sited on Blacklands, with no intervisibility owing to intervening buildings. The Grade I Listed Clare House and Wall And Arch To Stable Court Clare House (Grade II Listed) lie to the north of the site, however, due to the dense intervening vegetation, there is no intervisibility. The Grade II Listed house at 106 Clare Lane lies a short distance northwest of the site, with views towards the south of the site visible from the rear of this property. To the west of the site, along Broadwater Road, is the Grade II Listed Cobb's Hall, which has intervisibility with the site from its rear façade.
- 6.18 The Historic Park and Garden of Clare House (a non-designated heritage asset covered by policy SQ3), lies to the north of the site, and is described in the MDE DPD, as 'a substantial landscaped parkland from the 18th Century, containing fine specimen trees, a lake and a stable block. The parkland is screened by boundary trees which remains mostly intact.' Within Darcy Court there is a converted oast house, which given its strong connection to the famous Kentish hop industry, its iconic and easily recognised architectural form and its connection to social history, is considered to be a non-designated heritage asset. There is intervisibility between the oast and application site, with some ground floor views reduced by intervening modern development.
- 6.19 In relation to the Grade II Listed 165 Mill Street/Westbrook House, the heritage significance is primarily due to its own built form. The setting of the building has already been impacted through the introduction of modern residential buildings, which have subsequently severed the house from the associated farmland which it was previously linked with, however some former agricultural links remain by way of existing farm buildings and several intervening views between the Listed Building and agricultural land. The removal of agricultural land historically associated with the Listed Building will reduce the legibility of the building as a former farmhouse to a greater degree than already present. The proposed development will introduce modern built form into the periphery of views of the Listed Building from the public footpath, albeit there shall be some separation. Additionally, the element of the site nearest the Listed Building is indicated as being open space and landscaped, which shall help contribute towards preserving the rural setting of this Listed Building. The development would however not be unacceptably harmful to this Listed Building.
- 6.20 The Grade II Listed house at 106 Clare Lane is primarily important in heritage terms due to its built form. Views of the development site shall be obtainable from the rear of this property, however owing to the retention of much of the structural landscaping within the application site, the separation with the development and the lack of a

historic functional relationship with the site, the development is not considered harmful to the setting of 106 Clare Lane.

- 6.21 Cobbs Hall was historically under the same ownership as a small part of the central western area of the development site. The indicative site plans show that it is intended for an area of reinforced hedgerow and tree planting to be planted along the western boundary, which will filter views from the Listed Building to the development and will retain part of the land historically under the same ownership as undeveloped, but there will be a slight erosion of the building's isolated nature. A remaining area of agricultural land located between the site and Listed Building will largely preserve the isolated agricultural setting of the building, but it is acknowledged that views of the development site shall be present, bringing the built edge of East Malling closer to Cobbs Hall. The impact of the development is however not considered harmful to Cobbs Hall.
- 6.22 In relation to 155 Mill Street/Office Building at Invicta Works, the site is not considered to contribute to the heritage significance of the asset through setting as it was historically in the same ownership, but under a separate tenancy. Intervening views between the site and Listed Building are very limited due to modern development at Darcy Court. As such, no impact is anticipated on the heritage significance of 155 Mill Street.
- 6.23 Listed Buildings by way of Lyme Cottage, Old School Cottages, 148-152 Mill Street, Blacklands Barn, Elizabeth Smiths Almshouses, Clare House and Wall and Arch To Stable Court Clare House lack clear intervisibility with the site, being separated by large domestic curtilages or intervening residential development and did not have a functional connection with the land. Therefore, these buildings are not potentially sensitive to residential development within the site.
- 6.24 In relation to the Mill Street East Malling CA, the special character and heritage significance is primarily as a result of the built form within the CA. The setting of the CA has already changed as a result of modern development within and within the setting of the CA. Modern development within Darcy Court has reduced the relationship with the agricultural land to the west. Within Darcy Court and the Mill Street East Malling CA, there is Darcy Court Oast, a non-designated heritage asset, converted to residential use. Despite the surrounding development, this building has a connection with the open agricultural fields, which give the building a clear setting and context. There are intervening views between the site and historic buildings within the CA, whilst being clearly visible on footpath MR117 when approaching and leaving the CA (as indicated in the East Malling CA Appraisal). When leaving the village, this gives observers the feeling of walking past an agricultural building and entering an agricultural landscape, whilst looking back at the village the appearance is of a rural landscape with a traditional rural village in the background. The site therefore contributes towards the heritage significance of the CA and Darcy Court Oast through setting and historic illustrative value. As such, the development would impact this significance, with the development resulting in the Oast and CA having

development within its setting, therefore reducing the connection with the rural landscape. However, it has to be noted that the plans indicate that the area closest to the public right of way and Oast will be retained as open space rather than being subject to built form, limiting the urbanisation of this element of the site. The areas of built form proposed closest to the CA are considered to likely be in-keeping with the CA as the Design and Access statement indicates that the appearance and layout of the development shall be of a rural character, reflecting the appearance of houses at the edge of East Malling village. The development would therefore appear as a natural extension of East Malling, similar to other existing developments to the west of East Malling. As such, the indicative design of the development by way of the siting of open space, landscaping, building designs and layout therefore minimises and reduces the level of harm to the setting of the Mill Street East Malling CA and its non-designated heritage assets.

- 6.25 In relation to the Clare House and Blacklands CA, its significance is primarily as a result of its historic buildings and open parkland space. The heritage importance of the non-designated Historic Park and Garden of Clare House is the open parkland. There has been previous development within the CA, the park/garden and its setting, including the residential development of Clare Wood Drive, schools and residential development to the north/north-west. The application site appears to have never been held in common with any properties in the CA. There is a strong tree-lined boundary along Clare Lane, which helps reduce intervisibility with the parkland and also contributes towards the setting and character of the CA, alongside the character of the edge of the parkland. The interior of the development would not be visually prominent from the CA and park/garden. As such, the expected impact from the development itself is minimal, apart from the formation of the access.
- 6.26 In relation to the access, the proposed development involves the removal of some trees to the south of Clare Lane to facilitate the entrance to the development, alongside the formation of a pathway along Clare Lane, with a small section of the works falling within the CA. There will be an impact upon the character of the street scene as a result of forming this new access which will reduce enclosure and impact the character of the lane. The plans submitted however clearly illustrate that the vehicular access plans simply propose what is essential in order to facilitate safe access to the development site. The proposed access will be surrounded by an extensive amount of planting, aiming to both screen the development from the street scene and CA, whilst replicating the existing heavily vegetated and banked appearance of Clare Lane. There will be a loss of vegetation and openness formed initially, however once the vegetation is established, the access is expected to appear similar to the natural appearance of the access to Clare Wood Drive. It is acknowledged that a pathway will be formed along Clare Lane, which will add an element of urbanisation to this rural lane. However, as this is proposed predominately along the south-side, which is closest to existing built form, a path would not appear out-of-place. The proposed footpath being predominantly on the southern side of Clare Lane is a sensible proposal as it will help with the retention of the roadside trees to the northern side which are important to the appearance of the

CA. It is acknowledged that some trees on/adjacent to Highways land on the southern side of the roadway may be lost, however these trees are of a lower quality, contributing less to the appearance of the CA. The path in-front of the school and closest to the access of the site are short in length and minor interventions in the CA. It has been confirmed with KCC Highways that the street lighting can be of a conservation design, suitable for use in a CA. The detailed design of the path and streetlights can be ensured by planning condition to ensure a satisfactory appearance. As such, it is considered that the development would not have an unacceptable impact upon the Clare House historic park or the Clare House and Blacklands CA.

- 6.27 The submitted heritage assessment with the application reaches the conclusion that the proposed development will result in a less than substantial amount of harm at the lowest end of the spectrum to changes to the setting of Westbrook House, Cobb's Hall, Mill Street East Malling CA and Clare Park and Blacklands CA.
- 6.28 The application has been reviewed by the Conservation Officer, who advises that the impact of the landscaping proposals on mitigating the visual impacts can only be truly be assessed once the detailed plans are provided. The parameters for the reserved matters application shall be set via condition to ensure an acceptable scheme comes forward in relation to the impact of the development on the rural landscape setting and the surrounding heritage assets. Additionally, the Conservation Officer has raised no objection to the development, and advises that the level of harm in relation to paragraph 208 of the NPPF is higher than that considered in the reports, but will be at the low to mid end of the scale of less than substantial harm.
- 6.29 Overall, given the above, the development would have an impact upon designated and non-designated heritage assets. The harm would however not significantly impact the ability of observers to recognise and appreciate the special interest of the surrounding Listed Buildings, Conservation Areas, heritage buildings and historic parkland. In relation to paragraph 208 of the NPPF, the impact would amount to less than substantial harm at the low to mid end of the scale.
- 6.30 In accordance with the NPPF, this harm should be weighed against the public benefits of the proposal. The proposal involves delivering 150 homes, with full policy-compliant affordable home provision, contributions to local services and a series of benefits, detailed later in the report and set-out within the Planning and Affordable Housing Statement Addendum. On balance, it is considered that the less than substantial harms are clearly outweighed by the benefits of the development.
- 6.31 On this basis it is considered that the development would not have an adverse impact on heritage assets and would therefore be in accordance with Sections 66(1) and 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990, Policy SQ3 and the NPPF (2023).

Flooding and drainage

6.32 In the Local Plan, Policy CP10 relates to flood risk and states that:

“1. Within the floodplain development should first seek to make use of areas at no or low risk to flooding before areas at higher risk, where this is possible and compatible with other policies aimed at achieving a sustainable pattern of development.

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

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

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

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

6.33 Within the NPPF, paragraph 165 explains that:

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

6.34 Paragraphs 167 and 168 of the NPPF explain the sequential test in relation to flood risk:

“167. All plans should apply a sequential, risk-based approach to the location of development – taking into account all sources of flood risk and the current and future impacts of climate change – so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by:

a) applying the sequential test and then, if necessary, the exception test as set out below;

b) safeguarding land from development that is required, or likely to be required, for current or future flood management;

c) using opportunities provided by new development and improvements in green and other infrastructure to reduce the causes and impacts of flooding, (making as much use as possible of natural flood management techniques as part of an integrated approach to flood risk management); and

d) where climate change is expected to increase flood risk so that some existing development may not be sustainable in the long-term, seeking opportunities to relocate development, including housing, to more sustainable locations.”

“168. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.”

6.35 Paragraphs 169, 170 and 171 explain the exception test in relation to flood risk:

“169. If it is not possible for development to be located in areas with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in Annex 3.”

“170. The application of the exception test should be informed by a strategic or site-specific flood risk assessment, depending on whether it is being applied during plan production or at the application stage. To pass the exception test it should be demonstrated that:

a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and

b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.”

“171. Both elements of the exception test should be satisfied for development to be allocated or permitted.”

6.36 Paragraph 173 details the process for determining planning applications:

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

a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;

b) the development is appropriately flood resistant and resilient;

c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;

d) any residual risk can be safely managed; and

e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.”

6.37 In relation to drainage, Policy CC3 of the MDE DPD sets out that development will not be permitted if it has an unacceptable impact on the water environment and if development proposals do not incorporate SuDS appropriate to the local context. It advises that SuDS will need to have appropriate maintenance and management agreements in place. It advises where it is not practicable to use SuDS, it will need to be demonstrated that an appropriate alternative means of surface water drainage is incorporated.

6.38 Paragraph 175 of the NPPF also covers surface water drainage and explains that:

“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.”

6.39 The application is supported by a flood risk assessment and outline drainage strategy (FRA). The FRA has assessed the development in relation to flood risk, sets-out an outline drainage strategy for the site and has considered the potential impact of the development on surface water runoff rates, given the increase in impermeable areas post-development.

6.40 The site has a small area of low extent of flood risk from surface water according the Environment Agency’s maps of surface water flooding. This area covers part of the area mainly near public right of way MR117 and the area proposed for the attenuation basin. The NPPF therefore requires that developments at risk of flooding undertake the sequential and exception tests (paragraphs 167-171). However, the PPG at paragraph 026 of the guidance for flood risk and coastal change advises:

“The Sequential Test should be applied to ‘Major’ and ‘Non-major development’ proposed in areas at risk of flooding, but it will not be required where:

- The site has been allocated for development and subject to the test at the plan making stage (provided the proposed development is consistent with the use for which the site was allocated and provided there have been no significant changes to the known level of flood risk to the site, now or in the future which would have affected the outcome of the test).*

- *The site is in an area at low risk from all sources of flooding, unless the Strategic Flood Risk Assessment, or other information, indicates there may be a risk of flooding in the future.*
- *The application is for a development type that is exempt from the test, as specified in footnote 56 of the National Planning Policy Framework.”*

- 6.41 The site is in an area at a low risk of flooding from all sources of flooding, specifically it is within flood zone 1 (the lowest form of fluvial and tidal flooding), has been found to be at a negligible/low risk from groundwater flooding, only contains a small area of low extent of flood risk from surface water/pluvial flooding and is at negligible risk from sewer flooding and infrastructure failure. Therefore, in accordance with the second bullet point in paragraph 026 from the PPG above, both the sequential and follow-on exception test are not required in this instance as the site is at a low risk of flooding from all sources. The development is therefore ideally located, in a location which has an overall low risk from flooding. The rest of this assessment therefore focuses on the application in the context of paragraphs 173 and 175 of the NPPF, alongside policies CP10 and CC3.
- 6.42 The drainage rates have been calculated, and it has been demonstrated that surface water can be managed, such that flood risk to and from the site following development will not increase. The indicative details illustrate that the majority of the site shall have the surface water drained via permeable pavements and a below ground drainage network to an attenuation basin. The basin may provide some infiltration but it is predominantly to attenuate flows prior to discharge to a sewer, with a restricted discharge rate (3.26l/s [QBAR]). The attenuation basin is proposed to include cellular storage below to increase capacity but to ensure that the water depth is kept to below 1.2m. A secondary discharge is proposed to the highway drain within Clare Lane as the site access falls away (north) from the main site area, with a minimum restricted 1.0l/s discharge rate. There are however other options for direct infiltration and drainage to a surface water sewer, which can be investigated further at detailed design. The final drainage design for the site can be secured via planning condition given the current application is for outline permission, with evidence to confirm that the drainage has been installed according to the approved details also required by a drainage verification condition.
- 6.43 It is acknowledged that the attenuation basin is proposed close to/in the area of surface water flood risk, however this is considered appropriate given this is one of the lowest parts of the site, this design means housing shall not be located in this area of low surface water flood risk and the attenuation basin shall also enable this flood risk to be managed.
- 6.44 A SuDS treatment train, including permeable paving, highway gullies, and sediment forebay on the detention basin inlet will improve water quality. A gravel filled mid-section through the basin would allow a nominal amount of infiltration.

- 6.45 A maintenance and management plan will ensure the effectiveness of the drainage strategy during the operation phase, which shall be secured by planning condition.
- 6.46 KCC LLFA have raised no objections to the development, subject to conditions relating to detailed design and verification. Similarly, Southern Water have also raised no objection subject to planning conditions being attached, which shall be incorporated into the LLFA conditions. Both consultees have offered advice, which are recommended to be included as planning informatives.
- 6.47 As such, given the lack of objections from drainage/flood risk consultees and the submitted details and assessment, it is considered that the development is appropriately located in relation to flood risk, it shall not be at an unacceptable level of flood risk, being appropriately flood resistant and resilient, and would not increase flood risk elsewhere, whilst incorporating a sustainable drainage system appropriate for a major development and safely managing residual flood risk. I am therefore satisfied that, with the suggested conditions, the development would be acceptable in relation to flood risk and surface water drainage. As such, it would accord with the requirements of policies CP10, CC3 and paragraphs 165-175 of the NPPF.
- 6.48 In conclusion, it is considered that the NPPF tests regarding harm are therefore met, with the development not conflicting with NPPF policies in relation to areas and assets of importance (paragraph 11 (d) (i)). As such the presumption in favour of sustainable development set out at paragraph 11 (d) (ii) re-emerges and needs to be applied. The remainder of the assessment must therefore be undertaken within the context of the tilted planning balance, with planning permission being granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. It is on this basis that the remainder of the analysis, and the conclusions drawn, follow.

Locational characteristics and associated impacts

- 6.49 Paragraph 84 of the NPPF states that “planning policies and decisions should avoid the development of isolated homes in the countryside”. Whilst the site is located within the designated countryside, it is located immediately adjacent to the defined settlement of East Malling Village and cannot be reasonably said to be isolated in any way. The development would therefore meet the requirements of paragraph 84 of the NPPF.
- 6.50 The NPPF states at paragraph 7 that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 of the NPPF states that the planning system has three overarching objectives to achieving sustainable development, these being an economic objective, such as ensuring adequate land is available to support growth and enable the provision of infrastructure; a social objective, such as ensuring a sufficient number and range of homes can be provided to meet the needs of present and future generations as well as accessible services and open spaces; and an environmental objective, ensuring that effective use is made of land, helping to improve biodiversity and protecting and

enhancing the natural, built and historic environment. Sustainable development is also re-iterated in policy CP1 of the TMBCS.

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

6.52 As detailed earlier in this report policies CP5, CP6, CP13 and CP14 of the TMBCS are considered to hold significantly diminished weight and to be out of date because the LPA cannot demonstrate a 5-year supply of housing land. Notwithstanding this point, given the development retains a green gap between East and West Malling, whilst the proposal is considered acceptable in relation to the visual impact (detailed later in the report), it is considered that the development would not harm the separate identities or result in the coalescence of settlements, as such there would be no conflict with policies CP5 and CP6. Policy CP13 relates to development within the rural settlements, which the development is outside, and therefore this policy does not apply to this application. In relation to Policy CP14, which seeks to restrict all market housing in the countryside, this approach does not comply with the NPPF and is therefore out-of-date and cannot be applied in this instance.

Agricultural land quality

6.53 The application site is Grade 2 agricultural land.

6.54 Paragraph 180 b) of the NPPF is the most relevant paragraph in relation to agricultural land quality:

“Planning policies and decisions should contribute to and enhance the natural and local environment by: ...

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland; ...”

6.55 Policy CP9 of the TMBCS advises that development of the best and most versatile land (DEFRA Grades 1, 2 and 3a) will be not be proposed in the LDF unless there is an overriding need, and there is no suitable site in a sustainable location on land of poorer agricultural quality; or alternative sites have greater value for their landscape, biodiversity, amenity, heritage or natural resources or are subject to other constraints such as flooding. As such, although this policy covers agricultural land quality, policy CP9 concerns the development plan production process, rather than development management applications, and is therefore not relevant to the determination of this application.

6.56 Notwithstanding this, the loss of the best and most versatile (BMV) land comprising the application site must be assessed and weighed in the overall planning balance.

- 6.57 The proposed development would lead to the loss of BMV land, which would provide economic benefits when being used for agriculture. However, when considering the site-specific issues, the site is not ideal agricultural land, which reduces its value.
- 6.58 The land is Grade 2 agricultural land (very good quality agricultural land), which is not of the best quality, with the highest quality land being Grade 1 (excellent quality agricultural land). Additionally, due to the size of the site (6.8ha), the development is not considered a 'significant' loss in the context of footnote 62 of NPPF when taking into account the threshold for consultation with Natural England is 20ha of BMV land proposed for development.
- 6.59 The application site is small in agricultural land terms. The site lacks connectivity with the wider agricultural land owing to residential development to the east and part of the north, whilst a railway line extends along the southern boundary. The site is also in multiple landownerships which do not form part of a wider landholding. The BMV land here is therefore of limited value in business terms (yield and profitability).
- 6.60 Overall, the loss of some BMV land is an acknowledged impact of the proposed development. However, the land subject to this application would not represent a significant loss and the land is of limited value in business terms. Therefore, on balance given the lack of a five-year supply of housing land and other benefits of the proposed scheme (as detailed throughout this report and in the Planning Statement Addendum), the development would not result in an unacceptable loss of agricultural land, and the proposal does not conflict with paragraph 180 b) of the NPPF.

Character and pattern of development and impact upon visual amenities

- 6.61 Policy CP24 of the TMBCS sets out a number of key objectives in terms of design. It requires that:
- “1. 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, density, layout, siting, character and appearance be designed to respect the site and its surroundings.*
- 2. All development should accord with the detailed advice contained in Kent Design, By Design and Secured by Design and other Supplementary Planning Documents such as Village Design Statements and Planning Briefs and, wherever possible, should make a positive contribution towards the enhancement of the appearance and safety of the area.*
- 3. Development which by virtue of its design would be detrimental to the built environment, amenity or functioning and character of a settlement or the countryside will not be permitted...”*
- 6.62 Policy SQ1 of the MDE DPD also relates to design and visual impact:

“All new development should protect, conserve and, where possible, enhance:

(a) the character and local distinctiveness of the area including its historical and architectural interest and the prevailing level of tranquillity;

(b) the distinctive setting of, and relationship between, the pattern of settlement, roads and the landscape, urban form and important views; and

(c) the biodiversity value of the area, including patterns of vegetation, property boundaries and water bodies.”

6.63 Policy SQ7 advises that development proposals must by way of their design/layout maximise opportunities for healthy living and provide access to open spaces. Policy SQ9 sets out that development will only be permitted whereby it can be demonstrated that the design/layout will be suitable in deterring crime. Healthy and safe communities are further emphasised at chapter 8 of the NPPF.

6.64 These policies within the LDF are broadly in conformity with those contained within the NPPF.

6.65 Policy DC6 of the MDE DPD covers development which affects rural lanes and states that:

“In the consideration of development proposals which are in the vicinity of, or are served by, rural lanes, permission will only be granted where:

(a) the development conserves and, where appropriate, enhances the value of the lane in terms of its landscape, amenity, biodiversity, historic or archaeological importance; and

(b) any proposed alterations to the lane are the minimum necessary to serve the proposal in terms of highway safety.

Where alterations to the lane are necessary, preference will be given to the use of natural materials in keeping with the character of the area as set out in the Character Area Appraisals SPD.”

6.66 High quality design is also reiterated in the NPPF. Paragraph 135 of the NPPF seeks to ensure that developments:

“a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”

6.67 Paragraph 136 of the NPPF explains the importance of trees:

“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. Applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users.”

6.68 Furthermore, paragraph 139 of the NPPF states that:

“Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be given to:

a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or

b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.”

6.69 Chapter 11 of the NPPF is specifically focused on ‘Making effective use of land’. Paragraph 123 and 129 are of particular relevance to this application:

“123. Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.”

“129. Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site.”

- 6.70 The current application is in outline form apart from the means of access and therefore matters of detailed design and layout are to be secured through a subsequent reserved matters planning application(s). The submission however does set-out key design principles which have been used to inform the Development Framework Plan, Building Heights Parameters Plan, Site Access & Indicative Landscape Strategy, design as detailed in the Design & Access Statement and Illustrative Masterplan extracts, to show how the development could be designed.
- 6.71 The key design principles set out within the Design & Access Statement to be followed at Reserved Matters stage, secured by planning condition, include ‘A: Retain structural vegetation’, ‘B: Central Public Open Space’, ‘C: Dense planting along Clare Lane’, ‘D: Undeveloped southern edge’, ‘E: Streets for all’ and ‘E: Lower density/farmyard style buildings’.
- 6.72 The development accommodates a residential development area measuring 4.37 hectares, providing for up to 150 homes. The average net density for the residential development area is 34 dwellings per hectare (dph). The proposed higher density residential area measures 3.77 hectares and will contain up to 132 dwellings at 35 dph. The area alongside the site's western boundary will be developed at a lower density to reflect the existing properties along Broadwater Road to the west of the site, which measures 0.6 hectares and will comprise of up to 18 dwellings at 30 dph. This density of development is considered in-keeping with the surrounding area, making an effective use of land as detailed in paragraph 129 of the NPPF.
- 6.73 The housing mix will be determined at the Reserved Matters stage, but it is expected to include a broad range of house types, sizes and tenures. A policy-complaint amount of affordable housing is proposed, at a level of 40%, with specifics of this to be agreed in the S106 legal agreement.
- 6.74 With regard to landscape effects, such matters as landscape designations, the landscape quality, scenic quality, rarity, recreational value and perceptual aspects and associations should be considered. The application is supported by a Landscape and Visual Impact Assessment (LVIA) to assess this impact. The site is however not covered by any statutory or non-statutory designations for landscape character or quality.
- 6.75 The LVIA details that the site can be seen along the PROW within the site, as well as sections of the site being visible further westwards on the PROW, including the section of PROW to the west of Broadwater Road. The northern section of the site is predominantly screened from the PROW and from the west by vegetation. The site is generally screened in views from Broadwater Road by the intervening vegetation and built form, however glimpses can be obtained from the properties and from the

railway bridge. The site can be viewed from the railway line to the south as well as from the adjoining residential properties. Views of the ground plane of the site from roads to the east are prevented by the intervening development along the roads, there are however views towards the site through gaps between the existing houses. The northern site boundary vegetation is visible from Clare Lane, although the interior of the site is screened in views due to the dense vegetation and the embankment

- 6.76 The LVIA details how the site comprises two grassed fields and part of an arable field, which are all ordinary in character and quality. There is one mature oak tree within the centre of the site, which is of higher quality and value, however, the majority of other structural vegetation is not of particular quality, with the field boundary hedges absent or gappy.
- 6.77 To the south of the site, there is the London to Maidstone/Ashford railway line, which the LVIA argues is an urbanising feature. This is however considered relatively normal for a rural landscape, with a low impact and little urbanising qualities. The adjoining settlement edge is clearly visible from the majority of the site. The settlement edge to the east of the site is harsh in parts, marked by the timber rear fences and rear facades of the 21st Century houses. Whilst there are also soft boundaries, comprising of boundary vegetation. This sets the site in the context of some built form, albeit rural village in nature.
- 6.78 The site contributes to the rural setting of East Malling. There are limited intervening views in-between houses in the western-most parts of the village and the site, however the site is clearly visible on footpath MR117 when approaching and leaving the village confines. When leaving the village, due to the presence of a converted oast, observers have the feeling of walking past an agricultural building into an agricultural landscape. When looking back at the village from within the site and to the west of the site (further along the PROW and along some sections of Broadwater Road), the appearance is of an open rural landscape comprising of an oast house, boundary edges, scrub lined railway track, trees and field boundaries, making views eastwards of a rural village edge. The site therefore contributes towards the rural setting of East Malling village and the surrounding rural Malling area.
- 6.79 Clare Lane is a rural lane, which is very enclosed by the vegetation heavy banks to each side. The heaviest and more substantial vegetation is located to the north of Clare Lane, forming the edge of Clare Park garden. The south boundary of Clare Lane comprises of overgrown hedgerow and a range of lower quality self-seeded trees. This lane contributes to the appearance of the rural transition when travelling between East Malling, the rural land in-between and West Malling. There are however currently no connections (physically or visually) between the grassed field parcel in the north of the site, and Clare Lane.
- 6.80 The northern field of the site is assessed as being of low landscape value and sensitivity. The southeastern field is assessed as being of medium quality, medium

to high landscape value, and medium sensitivity, while the southwestern field is assessed as being of medium landscape value, and medium to high landscape sensitivity, due to the fact that it is more visually open. As such, given these factors, the site has been assessed in the LVIA as being of medium value, with a medium landscape sensitivity.

- 6.81 Following construction of the development, the LVIA considers the tops/filtered views of the new homes may be visible between the intervening houses, in views from Mill Street, Darcy Court and Stickens Lane, however, they will be seen in context with the existing houses, and will not appear discordant. There will be views of the new houses from properties directly adjoining the application site, but softened by proposed landscaping. The proposed development will be visible from the public footpath MR117 to the east of the development and the section which passes through it, however the proposals include a green corridor along the footpath, which will allow for the incorporation of new tree planting to filter and soften the views of the new homes, retaining a more natural appearance. From further west along this path beyond the site, the new homes will be partially visible, filtered by the existing vegetation as well as the proposed orchard planting, however the homes will be seen in the foreground of the existing settlement. The proposed lower density and height of the development on the western edge of the site will aid in creating an appropriate transition between the countryside and the settlement, both physically and visually. The houses will be visible from the railway line when approaching from the west, seen filtered behind the intervening existing vegetation and proposed orchard planting. The new access and northernmost new homes will initially be visible in glimpsed views from Clare Lane to the north, however as the proposed tree, hedgerow and woodland planting matures, the new homes will become filtered in these views, although the access will remain visible. Views from further northwest along the road will not be materially affected, and neither will views from Clare Park, due to the intervening vegetation along the road. The tops of the new homes will be seen from Broadwater Road where there are gaps in the roadside vegetation and built form. The development will be partially screened and broken up by vegetation and trees, alongside the proposed tree/orchard planting, and while the houses will be closer, the overall character of the view will not change. The development will not be readily visible from Well Street and Stickens Lane to the south of the railway line. This visual impact is considered acceptable.
- 6.82 The indicative development proposed on the Building Heights Parameters Plan indicates buildings of between 1 and a half storeys to 2 and a half storeys (dwellings with rooms within loft spaces). The one and a half storey buildings shall be situated along the western edge of the development to offer a softer transition between the proposed development and the adjacent countryside, thereby reducing the visual impact to the west and creating an appropriate transition between the denser village core and the rural countryside beyond. The proposed lower density development within the west of the site reflects the looser character of the scattered properties on Broadwater Road. Two-storey dwellings are proposed throughout, with two and a half storey homes located in more central parts of the development, mainly

concentrated along the primary street, reflecting the character of East Malling village and to emphasise the importance of the primary street, to mark the importance of key spaces, to terminate views and vistas along the new streets and to punctuate the roofscape. This scale of development is considered acceptable for the locality, drawing upon the scale of East Malling village and appropriate in relation to the landscape and visual impacts.

- 6.83 The proposed development is shown to include 2.32ha of green infrastructure, including informal and formal public open space, an equipped children's play space, a community orchard, structural landscape planting and an attenuation basin. Thicket and tree planting, alongside enhancements to existing grassland, with open space and wildlife area are indicated towards the south boundary with the railway line. This will mitigate the impact of the development on local wildlife, provide a softer southern boundary for the site and enhance the green ecological link here. A new native hedgerow and orchard is proposed along the south western edge of the site, in order to form a clear soft edge to the development, drawing on the historical use of the land and to create an appropriate transition between the settlement and the countryside beyond, which will also aid in filtering and softening views of the new development from the west. The public open space and SuDS attenuation basin are indicated along the boundary of PROW M117, thereby retaining a more natural appearance to the public footpath, aiding further with wildlife and lessening the visual impact to the area where views of the site can be obtained as existing. New street trees and trees within the open spaces are also proposed, in order to create an attractive landscape and setting to the new homes. The mature oak tree within the centre of the site, as well as the remnant hedgerow between the two southern fields and much of the existing structural landscaping will be retained and incorporated into the layout of the proposed development, with only a couple of short sections of hedgerow requiring removal to allow internal access, thereby minimising the impact of the development upon the existing landscape. The indicative landscaping is considered acceptable, minimising the impact of the development on the surroundings and providing a wealth of benefits.
- 6.84 The Design and Access Statement has been amended with an addendum, with indicative layouts and building appearances being indicated. The indicative design and layout being aimed for is that of a farmstead and rural village. The layout follows a more rural arrangement to reflect the existing settlement pattern within East Malling, with its natural organic growth. The indicative external appearance for the buildings includes red and orange brickwork with a water struck finish, timber weatherboarding, red hanging tiles, exposed timber frames, hipped roofs, hipped dormers, grey and orange plain roof tiles and chimneys where appropriate. This draws on the development site at Franklin Kidd Lane East Malling, as well as giving a nod to the agricultural history of the site. This will further aid in reducing the visual impact of the development. The development shall appear a natural and rural organic growth of East Malling as opposed to an urban extension, extending from the modern development at Darcy Court and newer houses along Stickens Lane. The development shall also be bound by the railway line to the south, similar to the

majority of East Malling village. The indicative layout and appearance of the development is appropriate considering the location of the development site.

- 6.85 Works are proposed along Clare Lane to form the site access. In order to preserve the rural character of Clare Lane, careful consideration has been given to the design of the road, and the proposed landscaping. The proposed access involves the removal of some trees to the south of Clare Lane to facilitate the entrance to the development, alongside the formation of a pathway along Clare Lane. It will be necessary for some re-profiling of the existing ground levels in order to construct the access road at an appropriate gradient suitable for vehicles. The cut and fill slopes are assumed to be at a gradient of 1:2 (50%) to tie into the existing slopes along Clare Lane. The gradient of the access road will vary between 1:16.7 (6%) and 1:20 (5%). There will be an impact upon the character of the street scene as a result of forming this new access, reducing enclosure and impacting the character of the lane. The plans submitted however clearly illustrate that the vehicular access plans simply propose what is essential in order to facilitate safe access to the development site.
- 6.86 The vegetation and trees proposed for removal are not considered significantly important and can easily be replaced. The indicative landscaping for the access as shown on the Site Access & Indicative Landscape Strategy shows a very natural appearance is aimed for, comprising of native trees with a mix of sizes, a wildflower mix, a woodland mix of trees, thicket planting and specimen focal trees, in order to reinstate the vegetated and enclosed character along Clare Lane, to compensate for the loss of vegetation here and to screen the development from the street scene. There will be a loss of vegetation and openness formed initially, however it is considered that the access once established shall become less visually prominent and shall appear similar visually to Clare Wood Drive, which appears in-keeping with Clare Lane and the rural surroundings. A pathway will be formed along Clare Lane, which will add an element of urbanisation to this rural lane. However, as this is proposed predominately along the south-side, which is closest to existing built form, a path would not appear out-of-place. It is acknowledged that some trees on/adjacent to Highways land on the southern side of the roadway may be lost, however these trees are of a lower quality than those to the north of Clare Lane, contributing less to the appearance of the street scene and this is a far better outcome than losing the better quality and more significant trees on the northern side. The path in-front of the school and closest to the access of the site are short in length and minor interventions, aiding significantly with permeability and pedestrian connectivity. The pathway associated with the development has been limited to what is necessary to serve the development, with the developer agreeing to provide traditional style street lighting as opposed to modern street lighting. The detailed design of the path and street lights can be ensured by planning condition to ensure that the landscape, amenity, biodiversity and history of the rural lane is conserved. The proposed access arrangements are therefore considered acceptable in relation to design and visual impact.

- 6.87 Conditions are recommended in relation to securing the detailed development under the reserved matters, levels, landscaping/boundary treatments, access road, trees and the design of the offsite highways works in the interests of design and visual amenity.
- 6.88 Comments from both TMBC Waste and Kent Police relate to detailed design, and as such informatives are recommended to bring these comments to the attention of the developer.
- 6.89 Overall, the site's character will change from grassland fields and an arable field, to a new area of residential development and associated open space, however the new development would have a layout that reflects the village, would have new homes designed to reflect the historic vernacular of the area, and the new and retained landscaping will ensure that the development is attractive and minimises its landscape impact. It is therefore considered that the proposed parameters for the application site accord with landscape related planning policy. The proposals are capable of being accommodated within the landscape without undue levels of harm to landscape character or visual amenity. In conclusion, the proposed development due to its scale and siting would not be detrimental to the overall character of the countryside in this location due to the physical landscape features being retained, the proposed enhancements to the landscape features and the indicated design and layout which would ensure that the proposed development would not result in significant effects to the character and appearance of the area, nor its visual amenity. On this basis it is considered that the proposed development is in accordance with CP24, SQ1, SQ7 and paragraphs 123, 129, 135, 136 and 139 of the NPPF.

Open space

- 6.90 Policy OS3 of the MDE DPD explains that on all residential developments of 5 units or above (net), there will be a requirement for open space provision in accordance with the quantitative standards and sequential approach set out in the policy annex. Where it is impractical or inappropriate to provide open space on-site, off-site provision or a financial contribution towards such provision or enhancements to existing provision shall be sought in accordance with the policy annex. Any new on-site or off-site provision will be required to be located, where feasible, where it can provide a connection to the network of existing open spaces and wildlife corridors. Appropriate measures the lay out the land and for maintenance shall be sought.
- 6.91 Policy OS5 sets out that any open spaces provided within new developments must where practicable be located where they provide a connection to the existing network of open spaces and green corridors. Such spaces should provide opportunities for walking, cycling and where appropriate, horse riding between and through open spaces, as well as opportunities for natural habitat creation and species migration. New open spaces provided in association with new development

must be managed to facilitate natural habitat creation and to allow, wherever practicable, for species migration across the Green Infrastructure Network.

- 6.92 Policy OS6 then goes on to explain that proposals for development will only be permitted if new open spaces provided in association with development, and any enhancements to existing provision, are wherever practicable, located where they can be accessible by foot, bicycle, public transport and by people with disabilities and, where appropriate, by horse, and designed to minimise the risk and fear of crime by incorporating natural surveillance.
- 6.93 The NPPF at paragraphs 8b), 88d), 91a) and 102 promote the incorporation of open spaces within developments to support communities' health, social and cultural well-being, alongside benefitting for nature and in addressing climate change.
- 6.94 The proposed development includes approximately 2.3ha of green infrastructure. Within the green infrastructure, there will be new areas of open space to offer a range of social, leisure, and recreational opportunities for both the new residents and the existing residents of East Malling. These spaces include areas of natural green space, a children and young person play area by way of a 400m² Locally Equipped Area for Play and 21,300m² of amenity green space comprising of new and existing vegetation, orchards, attenuation basins, green corridors, existing public footpath and pedestrian routes. Areas of deficiency in relation to open space provision (parks and gardens and outdoor sports facilities) can be sought via legal agreement, with TMBC Leisure services having assessed the requirements and requested accordingly. This level of on-site open space provision, including play space and community orchard is a significant social benefit of the scheme, weighing in favour of the development.
- 6.95 The areas of landscaping and open space will be linked with existing green corridors and landscaping by way of tree corridors and hedgerows. The spaces are shown to be linked to the existing public right of way network MR117 and would be accessible to members of the public. Given the scale and siting of the development, it is not considered appropriate or necessary to allow equestrian use of the open spaces and PROW, and it would not be appropriate to allow cycle use of MR117.
- 6.96 Given that the application is currently at outline stage, full details of the open space to be provided on site along with a timetable for provision and a scheme for future management of the spaces can be sought by planning condition.
- 6.97 Overall, given the above, the development complies with policies OS3-OS6 of the MDE DPD and paragraphs 8b), 88d), 91a) and 102 of the NPPF.

Access, highways and transport

- 6.98 Policy CP2 relates to sustainable transport and explains that:

“New development that is likely to generate a significant number of trips should:

- (a) be well located relative to public transport, cycle and pedestrian routes and with good access to local service centres;*
- (b) minimise the need to travel through the implementation of Travel Plans and the provision or retention of local services and facilities;*
- (c) either provide or make use of, and if necessary enhance, a choice of transport modes, including public transport, cycling and walking;*
- (d) be compatible with the character and capacity of the highway network in terms of the volume and nature of traffic generated;*
- (e) provide for any necessary enhancements to the safety of the highway network and capacity of transport infrastructure whilst avoiding road improvements that significantly harm the natural or historic environment or the character of the area; and,*
- (f) ensure accessibility for all, including elderly people, people with disabilities and others with restricted mobility.”*

6.99 Policy SQ8 of the MDE DPD covers road safety and states that:

- “1. 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.*
- 2. 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.*
- 3. 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.*
- 4. Development proposals should comply with parking standards which will be set out in a Supplementary Planning Document.*
- 5. 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.”*

6.100 Paragraph 114 of the NPPF states that in assessing development applications, it should be ensured that appropriate opportunities to promote sustainable transport modes have been taken up, given the type of development and its location, that safe and suitable access to the site can be achieved for all users, the design of transport elements reflect current national guidance and any significant impacts from the

development on the transport network or on highway safety can be cost effectively mitigated to an acceptable degree.

6.101 Paragraph 115 of the NPPF sets-out when applications can be refused permission on highways grounds:

“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”.

6.102 Paragraph 116 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.”

6.103 Paragraph 117 then sets out that all developments that will generate significant amounts of movement should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.

6.104 In relation to public rights of way, paragraph 104 of the NPPF details that:

“Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.”

6.105 The application is supported by a Transport Assessment, a Travel Plan, a series of Transport Technical Notes and highways access drawings.

6.106 Vehicular access into the Site will be taken from a proposed priority controlled T-junction to the south side of Clare Lane. This will be on the section of land adjacent to 29 Clare Lane. The level of visibility designed for the proposed access is based

upon the observed speeds, which can be achieved within the existing highway boundary and land within the applicant's control. The access has been subject to a full road safety audit with all recommendations being incorporated to ensure the design is appropriate. The proposed access is therefore considered acceptable.

- 6.107 The submitted transport assessment indicates that the development is likely to generate 69 two-way movements in the AM peak (08:00-09:00) and 65 two-way movements in the PM peak (17:00-18:00), with the majority (circa 60%) of development traffic anticipated to route via the A20 (east or west), with the remaining traffic routing via Lucks Hill, High Street or Lunsford Lane. It is acknowledged that the surrounding highway network includes areas of on street parking, blind bends and narrow roads. The applicant has however assessed the traffic impact upon the locality (including existing and consented developments) and provided personal injury collision records for the locality. The additional traffic generated would not be highly significant and when considered alongside the good personal injury collision record in the vicinity, which confirms that neither the highway layout or any defects within it are a contributory factor in any of the recorded collisions, there is no evidence that the additional traffic could worsen conditions to the point that could be reasonably described as severe. Specifically the site access junction with Clare Lane (Priority Junction), Lucks Hill/Winterfield Lane/Clare Lane/Broadwater Road (Staggered Junction) and Winterfield Lane/Chapham Way (Priority Junction), shall operate within capacity without any unacceptable levels of queuing or delays. The A20, London Road/Lunsford Lane/Winterfield Lane (Signal Controlled Junction) will operate over capacity, however this will only be marginally worse and not to a level considered unacceptable. Finally, at Mill Street and High Street (Highway Links), the amount of additional traffic (maximum of 8 trips in the PM peak) anticipated to route through this link is modest and given the good personal injury collision record at this link, the additional traffic generated by the development would not unacceptably impact upon safety or capacity.
- 6.108 Given the existing speed limit is being exceeded, the application proposes a series of off-site highway works by way of traffic calming. This is proposed to include 30 mph rondels with coloured surfacing, 30 mph repeater signs, a vehicle activated sign, a welcome to East Malling sign and new lighting columns. These measures are considered prudent and proportionate. The applicant previously proposed vertical deflection measures also. These have been removed at the request of KCC Highways and it would not be suitable for Clare Lane to currently have vertical deflection measures installed. This is because they would be isolated and not in keeping with the existing road environment outside of the village boundary, potentially creating a hazard due to motorists failing to anticipate the proposed vertical deflection.
- 6.109 Matters of parking, turning and servicing within the development are for future consideration at the reserved matters stage, and are covered by appropriate planning conditions.

- 6.110 The site currently includes public right of way MR117, which is a public footpath. The section that crosses the site is proposed to be improved by way of surface improvements and lighting. The PROW shall be crossed by a single internal access road, with the PROW being sited within the onsite open space, thereby protecting its appearance. Detailed design of the PROW can be provided at reserved matters stage. Contributions shall be paid for offsite improvements to the PROW network, including MR117 and MR118, by way of upgrading the surfaces and installing new signage. These improvements are considered acceptable and are one of the key benefits of the scheme. These improvements will benefit both existing and new residents, with the improvements to the west of MR117 significantly increasing pedestrian connectivity westwards to West Malling as they shall improve all weather use of this path, which is often unusable at times of inclement weather, whilst no alternative off-road routes exist. A new crossing on Mill Street is proposed between MR117 and Middle Mill Road and can be secured via S278 agreement. The proposals and impact upon the PROW network have been reviewed by KCC PROW Team and KCC Highways and considered acceptable. KCC PROW Team have recommended a condition for a PROW management scheme and for details of works to the PROW within the site, which is recommended to be attached.
- 6.111 It is however worth noting that MR117 cannot be the only pedestrian access from the site to East Malling village centre as this shall remain unlit and lacks natural surveillance, which shall discourage its use, especially at times of darkness. Therefore, a dedicated and lit pedestrian link is proposed along the site access onto Clare Lane, running along existing highway land to the south side of Clare Lane, then subsequently crossing to the north side of Clare Lane in-front of the Malling School. This provides good pedestrian access to/from East Malling, linking in with the existing facilities on Mill Street. These off-site highways works have been subject to an independent stage 1 Road Safety Audit (RSA), with the auditor's recommendations accepted and amendments incorporated into the design, therefore the design is considered safe. This access is specifically required by the Local Highway Authority, ensuring an appropriate, logical, direct and obvious all-weather route to the village centre. The works shall be provided prior to any occupations occurring and via a S278 agreement with Kent County Council. However, given that the pathway is sited within a Conservation Area, specific details of the pathway surfacing and lighting can be obtained via a planning condition. This pathway significantly improve pedestrian connectivity in this area, being a key social benefit of the proposal.
- 6.112 In relation to sustainability, within walking distance there are local schools, a public house, recreational facilities in the form of playing fields and a tennis club. Some facilities can be accessed by bike within the locality; however it is acknowledged that trips to further destinations maybe discouraged by the level of traffic on the busier roads in the wider area. Details of cycle storage and its permanent retention to aid with cycling uptake can be sought via planning condition.

- 6.113 The Transport Assessment outlines the availability of public transport services. East Malling contains a train station (650m from the site) with a reasonable level of service to/from local and regional destinations, with an enhanced frequency of service at peak times. The closest bus stop is 270m from the site on Mill Street/Stickens Lane served by bus service number 58, however lacks suitable waiting facilities and therefore bus journeys may be more limited. This provides journeys to West Malling and Maidstone.
- 6.114 A Framework Travel Plan has been submitted with the application. This sets out how the applicant intends to encourage travel by alternative, more sustainable means, including the provision of broadband to all properties, distribution of travel information, upgrading of the nearby PROW and a traffic calming scheme to create a more cycle friendly environment. This is considered reasonable.
- 6.115 The application has been reviewed by KCC Local Highway Authority, who have considered the impact of the development proposals upon highway network, and they raise no objection subject to a series of planning conditions. These conditions are recommended to be attached to the decision notice, apart from the EV chargers' condition. It is recommended that an informative be attached instead for EV chargers (alongside other informatives recommended by KCC Highways) as Building Regulations cover the detailed design of such provision.
- 6.116 Kent Fire and Rescue are satisfied with the proposals in relation to emergency access. Their guidance is recommended to be attached as an informative on the decision notice.
- 6.117 The application has also been reviewed by National Highways in relation to the impact of the development upon the strategic road network. They are content that the proposals, if permitted, would not have an unacceptable impact on the safety, reliability, and/or operational efficiency of the Strategic Road Network in the vicinity of the M20 provided a planning condition in relation to a construction traffic management plan and travel plan are attached.
- 6.118 In light of the above assessment and the lack of objections from KCC Highways, I am satisfied that the development would not result in an unacceptable impact on highway safety and the residual cumulative impacts on the road network would not be severe. The development would be sustainable in relation to transport and would enable good pedestrian access to/from the site to facilities in the locality. It would therefore not conflict in any way with Policy CP2 of the TMBCS, Policy SQ8 of the MDE DPD or paragraphs 114-116 of the NPPF.

Ecology, biodiversity and trees

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

6.120 Policy NE3 states that development that would adversely affect biodiversity or the value of wildlife habitats across the Borough will only be permitted if appropriate mitigation and/or compensation measures are provided which would result in overall enhancement. It goes on to state that proposals for development must make provision for the retention of the habitat and protection of its wildlife links. Opportunities to maximise the creation of new corridors and improve permeability and ecological conservation value will be sought.

6.121 Policy NE4 further sets out that the extent of tree cover and the hedgerow network should be maintained and enhanced. Provision should be made for the creation of new woodland and hedgerows, especially indigenous broad-leaved species, at appropriate locations to support and enhance the Green Infrastructure Network.

6.122 These policies broadly accord with the policies of the NPPF. In particular, paragraph 180 a) and d) and paragraph 186:

“180. Planning policies and decisions should contribute to and enhance the natural and local environment by:

a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

...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;...”

“186. When determining planning applications, local planning authorities should apply the following principles:

a) 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;...

...c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and

d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.”

6.123 Specifically in relation to trees, paragraph 136 of the NPPF details that:

“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. Applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users.”

- 6.124 Section 40 of the [Natural Environment and Rural Communities Act 2006](#) places a general duty on all public authorities, including the local planning authorities, to conserve and enhance biodiversity.
- 6.125 The site and the surrounding area are not subject to any ecological designations. There are no nearby ecological statutory designated sites, with the site being 5km from the North Downs Woodland Special Area of Conservation, 5.3km from the Peter's Pit Special Area of Conservation and 1.9km from the Ditton Quarry Local Nature Reserve. There are six non-statutory sites present within a 2km radius, with the nearest ecological non-statutory designation being Leybourne Wood Local Wildlife Site, 1000m to the north-west. No significant adverse effects to these designations are anticipated as a result of the proposed development.
- 6.126 An Ecological Impact Assessment, Biodiversity Net Gain Plan and supporting ecological information have been submitted in support of the application, which provide a good understanding of the ecological interest of the site.
- 6.127 Habitats currently present within the site are generally common and widespread, with the greatest ecological interest associated with the native hedgerows and semi-improved grassland with Meadow vetchling and pyramid orchid. The Ecological Impact Assessment sets-out that the scheme seeks to retain hedgerows and other habitats wherever practicable, with compensatory planting provided within retained open space areas. Subject to the provision and retention of these areas of habitat within the sites biodiversity areas the proposal would be considered appropriate. This matter would need to be demonstrated through the detailed plans at reserved matters stage and can be secured by condition.
- 6.128 A breeding population of common lizards *Zootoca vivipara* have been recorded on-site. Relatively high numbers of several common and widespread species of bat have also been recorded utilising the Site for foraging (6 species in total). 43 species of birds were recorded, with 9 confirmed and 29 possible/probably breeding. The site also has the potential for harvest mouse, hedgehogs and invertebrates, with a suitable habitat for breeding birds and trees with low bat potential. There is no evidence of an active badger sett on site, however badgers are highly active and therefore updated badger surveys will need to be carried out as part of any

mitigation strategy. Mitigation is proposed within the Ecological Impact Assessment to address potential impacts on the protected species and ensure compliance with applicable legislation, with specifics of this secured by planning condition.

- 6.129 The majority of birds within the Bird Survey were found within the site boundaries and very few ground nesting birds were recorded. However birds were recorded foraging within the site and therefore there will be a reduction of foraging habitat for birds within the surrounding area. The majority of the site boundaries will be retained within the site and those within the areas of open space can be enhanced to try and minimise disturbance from the development. The management plan (to be secured by condition) will ensure that the hedgerows on site will be managed to create dense/thick hedgerows.
- 6.130 The reptile population will be retained on site within the open space, with a knee high rail to deter access. The southern boundary is indicated to be managed to benefit reptiles. Grassland with Meadow vetchling and pyramid orchid will be retained. The management of these areas will need to be detailed in the management plan to ensure that there are no conflicts with the different uses, which shall be secured by planning condition.
- 6.131 Bats have been recorded on site but largely within the site boundaries which are indicated to be retained. The management of the open spaces appropriately will ensure that there are foraging / commuting opportunities, ensured by the management plan condition. Additionally, a condition is proposed to ensure that any lighting proposed is appropriately designed to limit the impact on nocturnal species.
- 6.132 The ecological assessment details that enhancement features will be incorporated into the site. New habitat creation is proposed to include on-site drainage with a network of swales and an attenuation basin, landscape and wildflower planting, native hedgerows, new trees, community orchard, wildflower grassland, wildlife pond, management of areas in the southern part for the benefits of reptiles and enhancement of existing grassland. In addition to this there shall be the incorporation of bat, bird, insect and hedgehog boxes, log piles and hedgehog gaps will be provided. Given the application is an outline application, detailed opportunities for ecological enhancement can be secured by planning condition, however these proposed benefits weigh significantly in favour of the proposed development.
- 6.133 The application was submitted prior to the requirement for mandatory biodiversity net gain (BNG) – therefore there is no requirement for the development to deliver a BNG. The applicant has however submitted a copy of Defra's Biodiversity metric with the submission to demonstrate the potential biodiversity benefits of the development. As the application was submitted prior to the commencement of mandated BNG, 10% is not required under the legislation however where the Defra biodiversity metric is used to demonstrate a biodiversity net gain in accordance with

the National Planning Policy Framework 2023, a minimum of 1% net gain has previously been accepted under appeal ruling.

- 6.134 This metric has been reviewed by KCC Ecological Advice Service, who agree with the baseline of the metric, but would like to see the proposed habitat baseline updated. This is because the submitted assessment details that the proposal will result in a loss of nearly 6% for habitats, whilst there are also elements of discrepancy between different plans relating to the proposed habitats. This confusion is likely to be as a result of the development being at outline stage when site specifics are unknown. It is clear from the submission that a biodiversity net gain is being aimed for by the applicant. As such, a revised BNG metric and biodiversity gain plan can be secured via a condition with the reserved matters application. A BNG monitoring mechanism shall be included with the S106 legal agreement to ensure that off-site BNG can also be obtained, and the development shall be of a benefit to biodiversity. The BNG obtained via on and off-site measures is another benefit of the development, weighing in its favour.
- 6.135 Overall, the proposed development and outline mitigation measures have been designed to achieve compliance with relevant legislation and planning policy. Measures are proposed to avoid killing or injury of protected species such as bats, Badger, birds and reptiles (protected under the Wildlife and Countryside Act 1981, the Conservation of Habitats and Species Regulations 2017 and the Protection of Badgers Act 1992) and opportunities for enhancements and gains for biodiversity are also proposed, in accordance with NPPF.
- 6.136 In relation to trees, the submission includes an Arboricultural Assessment. The tree survey has recorded all trees on and immediately adjacent to the site and has assessed the potential impacts of the proposed development of the site on the existing trees. There are no trees on site covered by a Tree Preservation Order ('TPO'). A total of 20 individual trees, 11 groups and three hedgerows were surveyed as part of the Tree Survey. The majority of these were located in the peripheral areas of the site, along the site boundaries. Two trees and three groups of trees were located away from the site boundaries. The majority of tree and hedgerow cover on site has been assessed to be C Category, which means it is of low quality. Many of the other trees and hedgerows on site have been assessed to be B Category, which means they are of moderate quality and should be retained where possible. One tree, a mature English oak, has been assessed to be A Category and should be retained and should inform the layout of the new homes.
- 6.137 A Tree Retention Plan has been prepared to show the proposed layout in relation to the existing tree cover. This shows that a number of trees would be required to be removed to facilitate access, including Groups G1, G2 and G9 and parts of Groups G5 and G8. This loss will be mitigated through new, on-site planting. The survey also shows that some hedgerows would need to be removed to facilitate access, however this would be mitigated through further hedgerow planting on site. The indicative access landscape strategy shows that a significant amount of landscaping

will be proposed around the access, thereby safeguarding the appearance of Clare Lane and offsetting the proposed loss.

- 6.138 The pathway to access the site along Clare Lane has been sited along the south side of the road. The proposed footpath being predominantly on the southern side of Clare Lane is a sensible proposal as it will ensure the retention of the roadside trees of higher amenity value to the northern side. It is acknowledged that some trees on/adjacent to Highways land on the southern side of the roadway may be lost, however these trees are of a lower quality and this is a far better outcome than losing the better quality and more significant trees on the northern side. When the path crosses to the north side of Clare Lane, the path becomes a no-dig pathway which should ensure that impact upon adjacent trees is limited, however this will be ensured by planning condition.
- 6.139 The Council's Tree and Landscape Officer has reviewed the arboricultural details and is content with the proposals and conclusions. However, to ensure a satisfactory scheme comes forward, conditions are recommended in relation to levels, details of services in relation to trees (to ensure service runs are outside root protection areas of retained vegetation and away from planting areas), landscaping, tree protection and method statement to take account of the finalised scheme, a tree felling and pruning specification, landscape maintenance for communal/non-residential areas and a condition to ensure the footpath along Clare Lane has no unacceptable impact upon nearby trees, alongside any mitigation measures to offset the impact of the proposed new footpath.
- 6.140 The applicant has undertaken discussions with the Malling School regarding the planting of additional trees within the school grounds to offset any potential loss of trees to enable the pathway along Clare Lane and to contribute towards enhancing the character of the Conservation Area. As no trees are currently proposed to be removed as part of the highways works along the north side of Clare Lane, we cannot insist this shall be undertaken currently. However, an informative shall be attached to remind the developer to engage with the Malling School further regarding this proposal, and if trees shall be lost as a result of the highways works, the provision of these trees would be expected to be seen and secured under planning condition 18 relating to the proposed offsite pathway. Notwithstanding this, the submission clearly details that the applicant intends that the developer shall undertake this tree planting, irrespective of the tree loss along Clare Lane as a result of the pathway – therefore this is considered to be a significant benefit of the scheme, resulting in an enhancement to the environment around Clare Lane.
- 6.141 Based on successful implementation of the proposed avoidance, mitigation and enhancement measures, alongside conditions and obligations relating to trees and ecology, the development is not anticipated to result in any significant residual adverse effects on important ecological features, and would have a net positive effect on habitats, biodiversity and trees. As such it is considered that the proposals

will accord with all relevant national and local planning policy in relation to ecology and trees, including Policies NE1-NE4 of the MDE DPD and the NPPF.

Noise, light and air pollution, and contamination

6.142 Paragraph 180 e) of the NPPF relates to pollution and details that:

“Planning policies and decisions should contribute to and enhance the natural and local environment by:

e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans;”

6.143 Policy SQ4 relates to air quality and explains that:

Development will only be permitted where all of the following criteria are met:

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

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

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

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

6.144 The application is supported by an Air Quality Assessment, which considers dust and fine particulate matter during the construction phase, and road traffic emissions during the operational phase. The report considers that during the construction phase, issues can be addressed through mitigation measures based on best practice. Once the development is constructed and occupied, the impact of the development on air quality is predicted to be negligible at all eighteen existing sensitive receptors that were assessed. Air quality effects are therefore considered to be 'not significant'.

6.145 No objection to this assessment has been raised by Environmental Health. As such, the development accords with national planning policy and policy SQ4 and will not lead to an unacceptable risk from air pollution, however to ensure no unacceptable

impacts occur during construction, a construction management plan condition is recommended.

6.146 In relation to contamination, paragraph 189 of the NPPF states that planning policies and decisions should ensure that:

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

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

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

6.147 Paragraph 190 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”*.

6.148 In terms of land contamination, the application is supported by a Preliminary Geo-Environmental Risk Assessment. The report presents the findings of a desk study and site walkover. It reviews the history and environmental setting of the site. No significant sources of contamination were identified and the site is considered to present a negligible potential contamination risk to both construction workers and future site occupants. Any unexpected contamination is anticipated to be localised and would be addressed during the development works through a discovery strategy.

6.149 Environmental Health have reviewed the assessment and are satisfied with the assessment and conclusions of the report. On the basis of available data and information, it is considered that the site or any adjacent site are not of potential concern. They have however advised that due to the size of the site and the potential for minor sources of contamination to have been missed (such as fly tipping), that a condition covering unforeseen contamination should be attached.

6.150 Accordingly, with this planning condition attached, the development would adhere to paragraphs 180e) 189 and 190 of the NPPF.

6.151 In relation to noise and light pollution, paragraph 191 of the NPPF states:

“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. In doing so they should:

a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;

b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and

c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.”

6.152 Policy SQ6 of the MDE DPD details that in considering the impact of noise from transport-related sources on proposal for new residential development, the Noise Exposure categories (NECs) identified in the policy annex will be applied. It also explains that proposals for noise-sensitive development will be required to demonstrate that noise levels are appropriate for the proposed use, and proposals for built development should incorporate design measures such that internal noise levels are demonstrated to meet the criteria levels in relevant guidance.

6.153 The application is supported by a noise impact assessment. The dominant noise source, which will potentially affect some of the residents of the development, is from the railway line south of the site. The noise impact assessment concludes that large parts of the development will meet BS8233 external and internal criteria without mitigation across the site. Confirmation has been provided by the applicant that train levels remain similar to those noted at the time of the original assessment.

6.154 Environmental Health have advised that the assessment satisfactorily demonstrates that the proposed development can be developed with certain noise mitigation methods, subject to an updated report at detailed design stage to provide specifics of this, including details of all train passes including that from freight. The development is therefore considered acceptable in relation to the acoustic environment, subject to a planning condition requiring the submission of a further noise report.

6.155 At the current stage, the method of construction is unknown, as such in the interests of aural amenity of nearby residents (as well as protecting groundwater), a condition relating to piling techniques is recommended.

6.156 In relation to light pollution, no issues have been raised by Environmental Health and neither is the site located within a defined intrinsically dark landscape. However, given the low levels of lighting in the locality and the undeveloped nature of the site as existing, submission of any lighting details shall be requested by planning condition.

6.157 Overall, given the details of the submitted information, the comments from Environmental Protection and the recommended planning conditions, the development would accord with policy SQ6 of the MDE DPD and paragraphs 180 and 191 of the NPPF.

6.158 Given the siting of the development, planning informatives are also recommended in relation to light, working hours and bonfires.

Foul drainage

6.159 Policy SQ5 of the MDE DPD requires that all development will be expected to ensure that adequate water and sewerage infrastructure is present or can be provided in order to meet future needs without compromising the quality and supply of services for existing users.

6.160 Paragraph 180 e) of the NPPF details that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of water pollution.

6.161 The application proposes for the development to connect to the existing foul sewage system via a gravity connection. With upgrades to the existing network, which is a responsibility of Southern Water, an acceptable means of disposing of foul water can be achieved with a connection to the public sewer system.

6.162 Comments of Southern Water are noted regarding the existing sewer system requiring upgrades; however it is the duty of the sewage undertaker to deliver upgrades to facilitate development, and this cannot hold-up the delivery of development. An informative will bring this matter to the attention of the developer. Details of the on-site foul drainage can however be secured via planning condition.

6.163 Overall, the foul drainage details are considered acceptable, complying with policy SQ5 of the MDE DPD and paragraph 180 e) of the NPPF.

Archaeological matters

6.164 Paragraph 200 of the NPPF states that where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

6.165 The application is supported by a Heritage Statement, which includes a brief summary of the archaeological potential. It considers that there is limited evidence to indicate that the site was the focus for any activity during any prehistoric period or the Romano-British period. Consequently, the potential for significant archaeological remains dating to these periods is low. The site is considered likely to have formed

part of the agricultural hinterland of nearby settlements which had been established during the medieval period. The potential for significant archaeological remains within the site is therefore low. The site is recorded variously in arable and orchard usage during the later post-medieval and modern periods, a use which it is considered likely to have held for some time prior to this. The potential for significant archaeological remains dating to the post-medieval or modern period is therefore low. It therefore reaches a conclusion of the site having low archaeological potential.

6.166 KCC's Senior Archaeological Officer has advised that the site of the development is an area of potential associated with prehistoric and Roman activity, with settlement and villa sites known in the area. The site lies to the west of East Malling, which is considered to be a Medieval settlement and may have been an early medieval community. There are historic post medieval farms around the application site and remnant archaeological landscape features, such as field boundaries, ditches, etc may survive on site. Given this potential and as no detailed site investigation has been undertaken, to adhere to paragraph 200 of the NPPF, it is considered reasonable to attach the programme of archaeological work condition recommended by KCC Archaeology, thereby safeguarding archaeological remains.

6.167 Overall, on this basis and with the condition attached, it is considered that the works would not have an adverse impact on heritage assets and would therefore be in accordance with chapter 16 of the NPPF (2023).

Minerals

6.168 Policy CSM5 of the KMWLP states:

“Economic mineral resources are safeguarded from being unnecessarily sterilised by other development by the identification of:

- 1. Mineral Safeguarding Areas for the areas of brickearth, sharp sand and gravel, soft sand (including silica sand), ragstone and building stone as defined on the Mineral Safeguarding Area Policies Maps in Chapter 9*
- 2. Mineral Consultation Areas which cover the same area as the Minerals Safeguarding Areas and a separate area adjacent to the Strategic Site for Minerals at Medway Works, Holborough as shown in Figure 17*
- 3. Sites for mineral working within the plan period identified in Appendix C and in the Mineral Sites Plan.”*

6.169 Also of relevance from the KMWLP is policy DM7:

“Planning permission will only be granted for non-mineral development that is incompatible with minerals safeguarding, where it is demonstrated that either:

- 1. the mineral is not of economic value or does not exist; or*

- 2. that extraction of the mineral would not be viable or practicable; or*
- 3. the mineral can be extracted satisfactorily, having regard to Policy DM9, prior to the non-minerals development taking place without adversely affecting the viability or deliverability of the non-minerals development; or*
- 4. the incompatible development is of a temporary nature that can be completed and the site returned to a condition that does not prevent mineral extraction within the timescale that the mineral is likely to be needed; or*
- 5. material considerations indicate that the need for the development overrides the presumption for mineral safeguarding such that sterilisation of the mineral can be permitted following the exploration of opportunities for prior extraction; or*
- 6. it constitutes development that is exempt from mineral safeguarding policy, namely householder applications, infill development of a minor nature in existing built up areas, advertisement applications, reserved matters applications, minor extensions and changes of use of buildings, minor works, non-material amendments to current planning permissions; or*
- 7. it constitutes development on a site allocated in the adopted development plan where consideration of the above factors (1-6) concluded that mineral resources will not be needlessly sterilised.*

Further guidance on the application of this policy is included in a Supplementary Planning Document.”

- 6.170 Paragraph 218 of the NPPF details that Local planning authorities should not normally permit other development proposals in Mineral Safeguarding Areas if it might constrain potential future use for mineral working.
- 6.171 The application site is in a Mineral Safeguarding Area for the Hythe Formation (Ragstone), the Sandgate Formation and the Folkestone Formation that are safeguarded by virtue of Policy CSM 5: Land-won Mineral Safeguarding.
- 6.172A Mineral Resource Assessment has been submitted with the application. The assessment concludes that most of the minerals on the site have already been sterilised by pre-existing residential development, and if mineral extraction were to take place, then a 100m buffer zone would be required, reducing the area of mineral extraction to approximately 3.5 ha, which is too small to be a commercially viable mineral resource. The Folkestone Formation within the application area is too limited to be subject to a viable extraction. The Sandgate Formation has not been exploited in Kent in the past and is also a small part of the overall mineral bearing land in the application area. In relation to the Hythe Formation (Kentish Ragstone), the bore hole results indicate that this part of the Hythe Formation is not likely to yield an economic deposit.

6.173 The County Council as Minerals and Waste Planning Authority has reviewed the application and has raised no land-won minerals or waste management capacity safeguarding objections

6.174 As such, given these issues with the mineral resource on site and lack of objections from KCC Minerals and Waste, exemption criteria 1 of policy DM7 can be applied to this application. The development therefore accords with policies DM7 and CSM5 of the KMWLP and paragraph 218 of the NPPF.

Other issues raised by public comments

6.175 Concerns have been raised in relation to difficulty viewing public and consultee comments on the website due to the new IT system. Senior management are aware of this issue in relation to applications generally and are working with the software provider to identify a solution.

6.176 Comments have raised questions as to why the 150 homes maybe acceptable, when Darcy Court was difficult to obtain permission for. This can be explained by how each application has to be assessed on its own merits and by how Darcy Court was subject to different planning considerations and was assessed under a different planning policy context.

6.177 It has been stated that insufficient community engagement was undertaken. The application as submitted includes a Statement of Community Involvement, which shows that Gladman consulted the local community prior to the planning application was submitted. It shows that views were taken account of in developing the development proposals for the site. It is therefore considered that an acceptable level of community engagement has been undertaken.

6.178 Queries have been raised about the site being within an area proposed as a green belt extension in the withdrawn Local Plan. This Local Plan was withdrawn and as such holds no weight in the consideration of the current application. It is also unreasonable to speculate how the new Local Plan will consider the application site. The application must be assessed in relation to the NPPF, and policies still considered up-to-date in the current Local Development Framework.

6.179 It has been stated that the consultation is invalid as no closing date was published on the website. This is however not a requirement. It is worth noting that all relevant parties contacted directly, alongside the press and site notices included a consultation expiry date.

6.180 Concerns regarding sinkholes are noted due to the Hythe Formation which covers much of the site. The Hythe formation covers much of the locality and the application site has not been subject to any recorded sinkholes, therefore it is currently not a valid reason to withhold planning permission.

- 6.181 Queries have been raised regarding the validity of information detailed within technical reports such as highways reports, planning statement, etc. Statutory consultees have raised no objection to the submitted information and the Council has no information on the contrary, and therefore the Council must assess the application based upon the information currently available.
- 6.182 Matters of overlooking and privacy will be dealt with at the reserved matters stage should planning permission be granted. They cannot be assessed currently as no plans of the housing layout have been provided. However, this is not expected to prove a problem as there is sufficient space on site to ensure adequate separation distances.
- 6.183 Questions have been made as to why there is a lack of information with this application. The application does not include detailed plans as this is an outline application, with detailed plans being submitted under the subsequent reserved matters application should planning permission be granted.
- 6.184 Queries/concerns about land ownership, loss of a view, reduction in property value and impact of construction work are not [material planning considerations](#) and as such have no bearing upon the acceptability of the current application.
- 6.185 All other issues raised by public comments are considered to be addressed either in the main body of the officer report, or dealt with by planning conditions, contributions and informatives.

Developer contributions

- 6.186 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”*
- 6.187 Paragraph 57 of the NPPF reflects this statutory requirement.
- 6.188 Policy CP17 of the TMBCS details that affordable housing provision will be sought at a level of 40% of the number of dwellings proposed.
- 6.189 In relation to affordable housing, paragraph 66 of the NPPF details that:
- “Where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership, unless this would exceed the level of*

affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups...”

6.190 Policy OS3 of the MDE DPD explains that on all residential developments of 5 units or above (net), there will be a requirement for open space provision in accordance with the quantitative standards and sequential approach set out in the policy annex. Where it is impractical or inappropriate to provide open space on-site, off-site provision or a financial contribution towards such provision or enhancements to existing provision shall be sought in accordance with the policy annex. Any new on-site or off-site provision will be required to be located, where feasible, where it can provide a connection to the network of existing open spaces and wildlife corridors. Appropriate measures the lay out the land and for maintenance shall be sought.

6.191 In relation to public rights of way, paragraph 104 of the NPPF details that:

“Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.”

6.192 Paragraph 97 of the NPPF explains that to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

“a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;

b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;

c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs;

d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and

e) ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.”

6.193 Policy CP25 of the TMBCS states that:

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

service provision at the time it is needed, by means of conditions or a planning obligation.

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

6.194 The scheme proposes to provide 40% of the total number of dwellings as affordable housing and therefore accords with Policy CP17 of the TMBCS. This holds significant weight in favour of the development, being a key benefit of the scheme given the demonstrable need for affordable housing within the borough of Tonbridge and Malling. The approval of the specific size, type and tenure of affordable housing and implementation of the provision will be secured under the S106 agreement to ensure that the provision comes forward in a manner that reflects and meets local need, and accords with the Affordable Housing Supplementary Planning Document (SPD) and Affordable Housing Protocol.

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

- £838,078.50 towards Secondary education provision
- £717,895.50 towards the provision of land for Secondary education
- £83,974.50 towards Special Education Needs provision
- £5,131.50 towards Community Learning provision.
- £11,107.50 towards Integrated Children’s Services
- £9,394.50 towards enhancements and additional library book stock
- £27,132.00 towards Adult Social Care
- £8,170.50 towards waste and recycling provision within the borough.

6.196 I am satisfied that sufficient detail has been provided in all these respects to ensure the relevant statutory and policy tests have been met, and the contributions should be secured through the legal agreement.

6.197 KCC PROW and Access Service have requested contributions to the following:

- Restricted Byway MR118 - new surface overlay for 137m: £19,180
- Public Footpath MR117 - Mill Street to eastern red line boundary - 170m - repair tarmac section as necessary and surface to redline to provide improved surface: £13,600
- Public Footpath MR117 - western red line boundary to Broadwater Road - 220m & Broadwater Road to Lucks Hill (excluding tarmac section) - 200m - improve with crushed stone or similar to counter “boggy” surface and install new signage to aid wayfinding for new residents – aiding connectivity towards West Malling: £21,000
- PROW Management Fee of 10 % = £5,378

- TOTAL of £59,158

6.198 These developer contributions are considered reasonable and necessary to enable good pedestrian connectivity within the vicinity of the development and to mitigate for the increased use of the PROW network, in accordance with paragraph 104 of the NPPF.

6.199 NHS CCG have advised that due to the potential patient numbers a contribution of £129,600 towards refurbishment, reconfiguration and/or extension of Thornhills Medical Practice, West Malling Group Practice and Wateringbury Surgery and/or other healthcare premises covering the area of development or new premises for general practice or healthcare services provided in the community. Again, this requirement is considered to meet the necessary tests and should be secured within the final legal agreement.

6.200 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 (detailed more at the earlier open space section of this report);

- Parks and Gardens – path improvements at Leybourne Lakes Country Park
- Amenity Green Spaces – N/A as provided on-site
- Outdoor Sports Facilities – Clare Park, East Malling
- Children’s and Young People’s Play Areas – N/A as provided on-site
- Natural and Semi-Natural Green Spaces – Enhancement of woodland at Winterfield Lane East Malling

6.201 The final layout and landscape plan is a reserved matter and therefore final open space contributions cannot be applied at this stage. Appropriate wording shall be included in the legal agreement to ensure that any open space deficiencies in the finalised scheme shall be sought through off-site contributions, in accordance with policy OS3.

6.202 TMBC holds a list of Parish Council projects which involve the provision of local infrastructure. For the area around East Malling, it sets-out £30,000 is required for the installation of shutters on East Malling Village Hall, New Road to prevent issues of vandalism that have been experienced recently. The applicant has confirmed that they are willing to contribute £30,000 towards these shutters. This is considered to be necessary and reasonably required in relation to the development as it shall be the village hall serving the Parish which the site sits within, with the funding required in order to safeguard this community facility to be used by the residents of the new development (paragraph 97 of the NPPF). This is a substantial benefit of the scheme, contributing towards local community facilities, used by both the new and existing residents of East Malling.

6.203 The submission details that the development shall deliver a biodiversity net gain, as detailed above in the section relating to biodiversity and trees. In summary, the currently submitted details require areas of clarification and full details cannot be provided given the outline nature of the application. As such, biodiversity net gain details will be secured via planning condition. To ensure ongoing monitoring, it will be essential to include biodiversity net gain monitoring and a fee for this within the legal agreement. This is directly related to the development, necessary to accord with paragraph 180d) of the NPPF and fairly and reasonably related in scale and kind to the development.

Planning balance and conclusions

6.204 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.

6.205 The proposed development would provide a policy compliant development of up to 150 residential dwellings at a time when the Borough does not have a 5-year land housing supply, with this development contributing significantly to meeting this need. It would also provide 40% affordable housing, contributing towards addressing a recognised need for affordable housing in the Borough. The development would deliver a wide-range of social, economic and environmental benefits as demonstrated in this report and further within the Planning Statement Addendum.

6.206 Overall, and for the reasons set out throughout this report, I consider that there would be no adverse impacts of granting planning permission for the development that would significantly and demonstrably outweigh the benefits that the development would bring, when assessed against the policies in the Framework taken as a whole.

6.207 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 Planning Permission** subject to the following:

7.2 The applicant to enter into a S106 agreement with Tonbridge and Malling Borough Council to pay developer contributions as set out in paragraphs 6.186 - 6.203 of this report

7.3 The following planning conditions:

Conditions:

Standard time/reserved matters/plans:

1. Approval of details of the layout and appearance of the development, the landscaping of the site, and the scale of the development, for any phase or sub-phase of the development of the site, (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 for all phases and sub-phases shall be made to the Local Planning Authority before the expiration of 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 three years from the date of this permission, or before the expiration of two years from the date of approval of the reserved matters for that particular phase or sub-phase, 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:
 - Site Location Plan CSA/5649/105 rev B
 - Junction and Access Road Layout and Long Section 01-01 rev C
 - Proposed Access Arrangements 1746/01 rev K

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 and in accordance with the National Planning Policy Framework 2023 (paragraph 140).

5. Applications for the approval of the reserved matters shall be in general conformity with:
 - Design principles, use and amount, access (apart from the rural access from Clare Lane), street hierarchy and parking, green infrastructure and design, revised access landscaping, revised illustrative masterplan and revised development appearance details as detailed within the Design and Access Statement November 2024
 - Development Framework Plan CSA/5649/104 rev L
 - Building Heights Parameters Plan 5649/116
 - Site Access and Indicative Landscape Strategy CSA/5649/109 rev C

- Air Quality Assessment GM11881 001 rev 3 August 2022
- Ecological Impact Assessment CSA/5649/04 rev A September 2023
- Socio-Economic Benefits Statement September 2023
- Heritage Statement P21-2112 rev 4 September 2023
- Preliminary Geo-Environmental Risk Assessment SHF.1132.263.GE.R.001.A rev A August 2021
- Agricultural Land Quality Assessment 2195/1 21 July 2023
- Landscape and Visual Impact Assessment September 2023
- Mineral Resource Assessment ST20463 0001 rev V1.2 September 2023
- Noise Impact Assessment GM11881 0002 rev V1.2 September 2023
- Planning and Affordable Housing Statement September 2023
- Planning & Affordable Housing Statement Addendum November 2024
- Travel Plan 1746/3/B August 2023
- Utilities Statement September 2023
- Transport Technical Note 19/12/23
- Transport Technical Note 11/01/24
- Arboricultural Assessment rev C June 2024
- BNG Metric July 2024
- Breeding Bird Survey Report CSA/5649/11 July 2024
- Ecology Letter 17 July 2024
- Flood Risk Assessment & Outline Drainage Strategy SHF.1132.263.HY.R.001.B April 2024
- Response to LLFA Comments 11 September 2024
- BNG Response Letter 3 October 2024
- Heritage Note 2 October 2024
- Landscape response 24 September 2024
- Outline Biodiversity Net Gain Plan EML-EVE-RP-1-03 rev 4 September 2024
- Reptile Mitigation Plan CSA/5649/115
- Transport Assessment 1746/2/E October 2024
- Transport Technical Note 22 October 2024

Reason: To ensure that the parameters of the development proposed are followed and in accordance with Tonbridge and Malling Borough Core Strategy 2007 policies CP1 and CP24, Managing Development and the Environment Development Plan Document 2010 policy SQ1 and the National Planning Policy Framework 2023 (paragraphs 135 and 140).

Design:

6. a) The details submitted in pursuance of Condition 1 shall include details of the proposed finished floor levels, eaves and ridge levels of the dwellings and finished ground levels (including roads, footpaths and landscaping) in relation to the existing ground levels of the site, adjoining land and highways, and any other changes proposed in the levels of the site.

b) The development in the relevant phase or sub-phase of the development shall thereafter be implemented in accordance with the approved details 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, the health of any trees or vegetation and in accordance with Tonbridge and Malling Borough Core Strategy 2007 policies CP1 and CP24, Managing Development and the Environment Development Plan Document 2010 policies SQ1, SQ8 and NE4 and the National Planning Policy Framework 2023 (paragraphs 114, 135 and 136).

7. a) No development within any phase or sub-phase above ground level of the development hereby approved shall take place until details of all materials to be used externally have been submitted to and approved in writing by the Local Planning Authority.

b) The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not harm the character and appearance of the area or the visual amenity of the locality and in accordance with Tonbridge and Malling Borough Core Strategy 2007 policies CP1 and CP24, Managing Development and the Environment Development Plan Document 2010 policy SQ1 and the National Planning Policy Framework 2023 (paragraph 135).

8. a) The details submitted in pursuance of Condition 1 shall show details of a scheme for the storage and screening of refuse.

b) No dwelling hereby approved shall be occupied until the storage and screening of refuse to serve that dwelling has been provided in accordance with the approved details and shall be retained at all times thereafter.

Reason: To facilitate the collection of refuse and preserve visual amenity and in accordance with Tonbridge and Malling Borough Core Strategy 2007 policies CP1 and CP24, Managing Development and the Environment Development Plan Document 2010 policy SQ1 and the National Planning Policy Framework 2023 (paragraph 135).

Landscaping, open space & trees:

9. a) The details submitted in pursuance of Condition 1 shall include 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.

b) The development shall thereafter be implemented in accordance with the approved details.

Reason: To safeguard the health of existing trees which represent an important amenity feature and in accordance with Managing Development and the Environment Development Plan Document 2010 policies SQ1 and NE4 and the National Planning Policy Framework 2023 (paragraphs 135 and 136).

10. a) The details submitted in pursuance of Condition 1 shall include a scheme of hard and soft landscaping and boundary treatments, including details of existing trees to be retained and size, species/cultivar, planting heights, densities and positions of any soft landscaping.

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 within any phase or sub-phase, whichever is sooner.

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 and in accordance with Tonbridge and Malling Borough Core Strategy 2007 policies CP1 and CP24, Managing Development and the Environment Development Plan Document 2010 policies SQ1 and NE4 and the National Planning Policy Framework 2023 (paragraphs 135 and 136).

11. 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 of BS5837: 2012 (Trees in relation to design, demolition and construction – Recommendations) and a site specific arboricultural method statement detailing precautions to minimise damage to trees 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 and in accordance with Managing Development and the Environment Development Plan Document 2010 policies SQ1 and NE4 and the National Planning Policy Framework 2023 (paragraphs 135 and 136).

12. a) The details submitted in pursuance of Condition 1 shall include a detailed tree felling/pruning specification.

b) All tree felling and pruning works shall be carried out in full accordance with the approved specifications under the reserved matters (condition 1) and in accordance with British Standard BS3998 (Tree work – Recommendations).

Reason: To safeguard the health of existing trees which represent an important amenity feature and in accordance with Managing Development and the Environment Development Plan Document 2010 policies SQ1 and NE4 and the National Planning Policy Framework 2023 (paragraphs 135 and 136).

13. a) No dwellings within any phase or sub-phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Landscape Management Plan for all landscaped areas, other than landscaping within the curtilage of new residential dwellinghouses, for a minimum period of 25 years has been submitted to and approved in writing by the Local Planning Authority.

b) The Landscape Management Plan shall include details of long term design objectives, management responsibilities, maintenance schedules and replacement planting provisions for existing retained trees and any new soft landscaping to be planted as part of the approved landscaping scheme, other than landscaping within the curtilage of new residential dwellinghouses.

c) The approved Landscape Management Plan shall be implemented in full in accordance with details approved under this condition.

Reason: To ensure a satisfactory appearance to the development and in accordance with Tonbridge and Malling Borough Core Strategy 2007 policies CP1 and CP24, Managing Development and the Environment Development Plan Document 2010 policies SQ1 and NE4 and the National Planning Policy Framework 2023 (paragraphs 135 and 136).

14. a) No dwellings within any phase or sub-phase of the development hereby permitted 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.

b) 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 Managing Development and the Environment Development Plan Document 2010 policies OS3, OS5 and OS6.

Highways/Transport/Parking:

15. a) The details submitted in pursuance of Condition 1 shall show land, reserved for parking.

b) No building hereby approved shall be occupied until the parking area to serve that building 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 the reserved vehicle parking area.

Reason: To ensure that adequate parking is provided, maintained and retained and in accordance with Managing Development and the Environment Development Plan Document 2010 policy SQ8 and the National Planning Policy Framework 2023 (paragraphs 114-116).

16. a) The details submitted in pursuance of Condition 1 shall include details of secure cycle storage to serve the development.

b) No building hereby approved shall be occupied until the cycle storage area to serve that building has been provided in accordance with the approved details. Thereafter it shall be retained in accordance with the approved details.

Reason: To ensure that cycle bays are provided and maintained in accordance with adopted standards and in accordance with Managing Development and the Environment Development Plan Document 2010 policy SQ8 and the National Planning Policy Framework 2023 (paragraphs 114-116).

17. No part of the development hereby approved shall be occupied prior to the completion of the highways works indicated on drawing number: 1746/01 Rev K titled 'Proposed Access Arrangement' being completed by the applicant via S278/S38 Agreements. The highways works shall be retained at all times thereafter.

Reason: To ensure appropriate delivery of highway improvements required for the development, to ensure the safe and free flow of traffic and in accordance with Managing Development and the Environment Development Plan Document 2010 policy SQ8 and the National Planning Policy Framework 2023 (paragraphs 114-116).

18. a) Prior to commencement of any works agreed under the S278 agreement, details of the following shall be submitted to and approved in writing by the Local Planning Authority in consultation with Kent County Council Highway Authority:
- the appearance and surfacing of the footpath along Clare Lane
 - lamp columns to be installed along Clare Lane
 - the no-dig construction technique (to include details of existing and proposed levels and any drainage), and any other techniques or protection measures to prevent/minimise damage to adjacent trees during construction of the path along the north side of Clare Lane
 - details of any mitigation measures to offset the impact of the proposed new footpath upon existing trees
- b) The works shall be implemented in accordance with the approved details.

Reason: In the interests of visual amenity, tree retention and to preserve the appearance of the Clare Park and Blacklands Conservation Area and in accordance with Tonbridge and Malling Borough Core Strategy 2007 policies CP1 and CP24, Managing Development and the Environment Development Plan Document 2010 policies SQ1, SQ3, NE4 and DC6, the National Planning Policy Framework 2023 (paragraphs 135, 136 and 201-209) and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

19. The use hereby permitted shall not be commenced, nor any building occupied, until the access road shown on the submitted plans (drawing number: Junction and Access Road Layout and Long Section 01-01 C) has been constructed. The access shall be retained at all times thereafter.

Reason: To ensure the safe and free flow of traffic, in the interests of visual amenity and in accordance with Tonbridge and Malling Borough Core Strategy 2007 policies CP1 and CP24, Managing Development and the Environment Development Plan Document 2010 policies SQ1, SQ8 and DC3, the National Planning Policy Framework 2023 (paragraphs 114-116, 135, 136 and 201-209) and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

20. The access shall not be used until the area of land within the vision splays shown on the submitted plans (drawing number: 1746/01 Rev K titled 'Proposed Access Arrangement'), with no obstructions over 0.6 metres above carriageway level within the splays, have been provided. The vision splays so created shall be retained at all times thereafter.

Reason: To ensure the safe and free flow of traffic and in accordance with Managing Development and the Environment Development Plan Document 2010 policy SQ8 and the National Planning Policy Framework 2023 (paragraphs 114-116).

21. a) No development shall take place within any phase or sub-phase of the development hereby approved until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The management arrangements to be submitted shall include (but not necessarily be limited to) the following:
- i. Routing of construction and delivery vehicles to / from site
 - ii. Parking and turning areas for construction and delivery vehicles and site personnel
 - iii. Timing of deliveries
 - iv. Permitted construction traffic arrival and departure times
 - v. Construction phasing
 - vi. Provision of wheel washing facilities prior to commencement of works on site and for the duration of the construction
 - vii. Temporary traffic management / signage
 - viii. Provision of construction vehicle loading/unloading facilities prior to commencement of work on site and for the duration of construction
 - ix. Provision of measures to prevent the discharge of surface water onto the highway
 - x. Management of all other construction related traffic
 - xi. The days of the week and hours of the day when the construction works will be limited to
 - xii. The controls on noise and dust arising from the site with reference to current guidance
 - xiii. Measures to ensure these are adhered to
 - xiv. Procedures for notifying properties identified as likely to be affected as to the ongoing timetabling of works, the nature of the works and their likely duration, with particular reference to any such works which may give rise to noise and disturbance and any other regular liaison or information dissemination.
- b) The development and all construction activity shall be undertaken in full compliance with the approved details.

Reason: In the interests of general amenity and highway safety and in accordance with Tonbridge and Malling Borough Core Strategy 2007 policy CP1 and Managing Development and the Environment Development Plan Document 2010 policy SQ8 and the National Planning Policy Framework 2023 (paragraphs 114-116).

22. a) No dwellings within any phase or sub-phase of the development hereby permitted shall be occupied until a comprehensive Travel Plan has been submitted to and approved in writing by the Local Planning Authority (in consultation with the Highway Authority for the M20 Motorway). The Travel Plan shall be prepared in line with prevailing policy and best practice and shall include as a minimum:

- the identification of targets for trip reduction and modal shift;
- the measures to be implemented to meet these targets including an accessibility strategy to specifically address the needs of residents with limited mobility requirements;
- the timetable/ phasing of the implementation of the Travel Plan measures shall be alongside occupation of the development and its operation thereafter;
- the mechanisms for monitoring and review;
- the mechanisms for reporting;
- the remedial measures to be applied in the event that targets are not met;
- the mechanisms to secure variations to the Travel Plan following monitoring and reviews

b) The development shall only be occupied in accordance with the approved Travel Plan which shall remain in perpetuity unless otherwise amended in accordance with a review to be agreed in writing by the Local Planning Authority in conjunction with the Highway Authority for the M20 motorway

Reason: In order to minimise the use of the private car, to promote the use of sustainable modes of transport and in accordance with Managing Development and the Environment Development Plan Document 2010 policy SQ8, the National Planning Policy Framework 2023 (paragraphs 74, 109, 108 and 114-116) and paragraph 40 of DfT Circular 01/2022.

23. a) No dwellings within any phase or sub-phase of the development hereby permitted shall be occupied until details of the method to ensure that the secondary access to the site will only be used by emergency vehicles has been submitted to and approved in writing by the Local Planning Authority.

b) The works shall be implemented in accordance with the approved details prior to the completion of the works on the site and shall thereafter be retained at all times.

Reason: In order to create a satisfactory access arrangement for the site and in accordance with Managing Development and the Environment Development Plan Document 2010 policy SQ8 and the National Planning Policy Framework 2023 (paragraphs 114-116).

24. a) The details submitted in pursuance of Condition 1 shall include a Public Rights of Way Management Scheme for the Public Right of Way within the site (MR117). The scheme shall include details of PROW management during construction (to cover any temporary closures or diversions) and details of to the proposed enhancements and improvements, including but not limited to surfacing, widths, signage and the access road crossing.

b) The Public Rights of Way Management Scheme and works to Public Right of Way MR117 shall be implemented in accordance with the approved details.

Reason: To protect and enhance the existing Public Right of Way MR117 and in accordance with Tonbridge and Malling Borough Core Strategy 2007 policy CP2 and the National Planning Policy Framework 2023 (paragraphs 104 and 114-116).

Drainage:

25. a) The details submitted in pursuance of Condition 1 shall include a detailed sustainable surface water drainage scheme for the site. The detailed drainage scheme shall be based upon the Enzygo Flood Risk Assessment & Outline Drainage Strategy Rev B dated April 2024 and their letter of 11th Sep 2024 in response to LLFA comments, 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 detailed drainage scheme will also be required to demonstrate that any existing surface water flow paths 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):

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

The drainage information shall also include a management and maintenance plan for the lifetime of the development and set-out the responsibilities of each party for the implementation of the SuDS scheme and a timetable for implementation

- b) 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, to ensure that the development does not exacerbate the risk of on/off site flooding and in accordance with Managing Development and the Environment Development Plan Document 2010 policy CC3 and the National Planning Policy Framework 2023 (paragraphs 173 and 175).

26. No dwellings within any phase or sub-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 in writing by the Local Planning Authority. The Report shall demonstrate that the drainage system

constructed is consistent with that which was 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, to ensure that the development as constructed is compliant with and subsequently maintained and in accordance with Managing Development and the Environment Development Plan Document 2010 policy CC3 and the National Planning Policy Framework 2023 (paragraphs 173 and 175).

27. a) No development other than ground investigations or site survey works shall take place within any phase or sub-phase of the development hereby approved until details of foul water disposal have been submitted to and approved in writing by the Local Planning Authority.

b) The scheme shall be carried out in accordance with the approved details prior to first occupation of the development and retained thereafter.

Reason: To ensure that adequate sewage infrastructure is present in the interests of pollution prevention and in accordance with Managing Development and the Environment Development Plan Document 2010 policy SQ5 and the National Planning Policy Framework 2023 (paragraph 180).

Biodiversity:

28. a) The details submitted in pursuance of Condition 1 shall include a detailed ecological mitigation strategy. The detailed mitigation strategy shall be informed by updated surveys if required. The ecological mitigation strategy shall include the following:

- Preliminary Ecological Appraisal
- Recommended species surveys
- Overview of mitigation required
- Detailed methodology of mitigation works for each species group
- Details of how it will align with construction works
- Timings of works
- Plans showing any mitigation areas and retained habitats
- Details of how the mitigation areas and retained habitats will be protected
- Interim management plan to enhance and maintain the mitigation areas

b) The mitigation strategy shall be implemented in accordance with the approved details prior to first occupation of the development in the relevant phase or sub-phase and retained thereafter.

Reason: To ensure the protection of habitats and biodiversity and in accordance with Managing Development and the Environment Development Plan Document 2010 policies NE2, NE3 and NE4 and the National Planning Policy Framework 2023 (paragraphs 180 and 186).

29. a) The details submitted in pursuance of Condition 1 shall include a detailed lighting design plan for biodiversity. The plan shall show the details of the types of lighting, a plan showing the location of the lights, anticipated horizontal and vertical light spill and details of any dimming scheme to be implemented. The lighting plan shall take account of the Bat Conservation Trust's Guidance Note 8 Bats and artificial lighting in the UK.
- b) All external lighting shall be installed in accordance with the specifications and locations set out in the plan and shall be maintained thereafter.

Reason: To limit the impact of light pollution from artificial light on nature conservation and in accordance with Managing Development and the Environment Development Plan Document 2010 policies NE2, NE3 and NE4 and the National Planning Policy Framework 2023 (paragraphs 180 and 186).

30. a) No dwellings within any phase or sub-phase of the development hereby permitted shall be occupied until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. The LEMP shall include an overview of the habitats within the site, aims and objectives, management requirements to achieve the aims and objectives, rolling 5 year timetable of works, habitat plan of the site, blank plans of the site for site managers to annotate, details of who will implement the management and details of how it will be funded.
- b) The LEMP shall be implemented in accordance with the approved details.

Reason: To ensure the protection and enhancement of biodiversity and in accordance with Managing Development and the Environment Development Plan Document 2010 policies NE2, NE3 and NE4, the National Planning Policy Framework 2023 (paragraphs 180 and 186) and section 40 of the Natural Environment and Rural Communities Act 2006.

31. a) The details submitted in pursuance of Condition 1 shall include an ecological enhancement plan. It shall include details of ecological enhancement features to be integrated in to the buildings and landscaping areas. The plan must demonstrate that the site has been enhanced for all species groups recorded within the site during the Ecological Impact Assessment (CSA Environmental; September 2021) and the Breeding Birds Survey (CSA Environmental; 2024).

b) The ecological enhancement plan shall be implemented in accordance with the approved details and retained thereafter.

Reason: To ensure the protection and enhancement of biodiversity and in accordance with Managing Development and the Environment Development Plan Document 2010 policies NE2, NE3 and NE4, the National Planning Policy Framework 2023 (paragraphs 180 and 186) and section 40 of the Natural Environment and Rural Communities Act 2006.

32. a) The details submitted in pursuance of Condition 1 shall include a biodiversity gain plan and updated biodiversity metric.

b) The development shall be implemented in accordance with the approved details, with the enhancements maintained for at least 30 years after the development is completed.

Reason: To ensure the development provides measurable gains for biodiversity in accordance the National Planning Policy Framework 2023 (paragraph 180).

Archaeology:

33. No development shall take place within any phase or sub-phase of the development hereby approved until the applicant, or their agents or successors in title have secured:

a) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved in writing by the Local Planning Authority; and

b) 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 in writing by the Local Planning Authority;

c) programme of post excavation assessment and publication.

Reason: To ensure that features of archaeological interest are properly examined, recorded, reported and disseminated and in accordance with the National Planning Policy Framework 2023 (paragraph 200).

Contamination:

34. a) If during development work, 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, public safety and human health and in accordance with the National Planning Policy Framework 2023 (paragraphs 180 and 189-191).

Noise:

35. a) No dwellings within any phase or sub-phase of the development hereby permitted shall be occupied until an updated noise report has been submitted to and approved in writing by the Local Planning Authority.

This report shall set-out the current noise climate at the site due to the close proximity of the London to Maidstone Railway line, with details of all train passes including that from freight and shall set-out how the following noise levels can be achieved:

(i) for gardens and other outdoor spaces, a desirable limit of 50dB LAeq,16-hour, and a maximum upper limit of 55dB LAeq,16- hour; and

(ii) internal noise levels no greater than 30dB LAeq, 8-hr (night) and 35dB LAeq, 16-hr (day) in bedrooms, 35dB LAeq, 16-hr (day) in living rooms and 40dB LAeq, 16-hr (day) in dining rooms/areas. These levels need to be achieved with windows at least partially open, unless satisfactory alternative means of ventilation is to be provided.

The report should also specifically detail any mitigation/attenuation measures needed to attain these noise levels.

b) The development shall be carried out in accordance with the approved details and thereafter retained and maintained at all times.

Reason: To safeguard the aural amenity of the occupiers of the dwellings hereby approved and in accordance with the Managing Development and the Environment Development Plan Document 2010 policy SQ6 and the National Planning Policy Framework 2023 (paragraphs 180 and 191).

Lighting:

36. a) No external lighting shall be installed in connection with the development hereby approved within any phase or sub-phase until such details have been submitted to and approved in writing by the Local Planning Authority

b) The external lighting works shall be carried out in strict accordance with those details and maintained and retained at all times thereafter.

Reason: In the interests of amenity and in accordance with Tonbridge and Malling Borough Core Strategy 2007 policies CP1 and CP24 and Managing Development and the Environment Development Plan Document 2010 policy SQ1.

Piling:

37. a) Prior to the commencement of any piling that is necessary for any building within any phase or sub-phase of the development, details of the piling techniques to be used for those buildings, together with details of any measures that are considered to be necessary to mitigate against noise disturbance and groundwater contamination shall be submitted to and approved in writing by the Local Planning Authority.
- b) The development shall be undertaken in accordance with the details so approved.

Reason: In order to prevent contamination of ground water, to protect the aural amenity of neighbouring residential properties and in accordance with the Managing Development and the Environment Development Plan Document 2010 policy SQ6 and the National Planning Policy Framework 2023 (paragraphs 180 and 191).

7.4 The following informatives:

Informatives:

1. When compiling the reserved matters submission(s) and detailed design of the site, the applicant should have due regard to the East Malling Village Design Statement.
2. Your attention is drawn to the comments available online by TMBC Waste Services in relation to the design and provision of refuse storage and collection.
3. The developer should consult Kent Police/Designing out Crime Officers (DOCO's) to address Crime Prevention Through Environmental Design and incorporate Secured By Design as appropriate.
4. The developer is recommended to follow Secured By Design guidance to address designing out crime to show a clear audit trail for Designing Out Crime and Crime Prevention and Community Safety. More details can be found in the consultee comment from Kent Police, available on the website.
5. Site security is required for the construction phase. There is a duty for the principal contractor "to take reasonable steps to prevent access by unauthorised persons to the construction site" under the Construction (Design and Management) Regulations 2007. The site security should incorporate plant, machinery, supplies, tools and other vehicles and be site specific to geography and site requirements.

6. In the interests of good neighbourliness, the hours of construction, including deliveries, 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.
7. The disposal of waste by incineration is contrary to Waste Management Legislation and could lead to justified complaints from local residents. It is thus recommended that no bonfires are lit at the site.
8. The applicant should engage with the Malling School regarding tree planting within the school grounds in advance of the submission of details pursuant to condition 18.
9. Local Planning Authority (LPA) permission does not convey any approval to carry out works on or affecting the public highway. Any changes to or affecting the public highway in Kent require the formal agreement of the Highway Authority, Kent County Council (KCC), and it should not be assumed that this will be a given because LPA planning permission has been granted.
10. Anyone considering works which may affect the public highway, including any highway-owned street furniture or landscape assets such as grass, shrubs and trees, is advised to engage with KCC Highways and Transportation at an early stage in the design process.
11. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the public highway. Some of this highway land is owned by KCC whilst some is owned by third party owners. Irrespective of the ownership, this land may have highway rights over the topsoil.
12. Works on private land may also affect the public highway. These include works to retaining walls which support the highway or land above the highway, and to signs or other structures which project over the highway. Such works also require the approval of the Highway Authority.
13. KCC has introduced a pre-application advice service in addition to a full formal technical approval process for new or altered highway assets, with the aim of improving future maintainability. Further details are available on the website below: <https://www.kent.gov.uk/roads-and-travel/highway-permits-andlicences/highways-permissionsand-technical-guidance>.
14. It is the responsibility of the applicant to ensure that before development commences, all necessary highway approvals and consents have been obtained, and that the limits of the highway boundary have been clearly established, since failure to do so may result in enforcement action being taken by the Highway Authority. The applicant must ensure that the details shown on the approved plans agree in every aspect with those approved under the relevant legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

15. Guidance for applicants, including information about how to clarify the highway boundary and links to application forms for vehicular crossings and other highway matters, may be found on KCC's website: <https://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/highways-permissionsand-technical-guidance>. Alternatively, KCC Highways and Transportation may be contacted by telephone: 03000 418181
16. All Electric Vehicle chargers provided for residential properties should be provided to Mode 3 standard (providing a 7kw output) and SMART (enabling Wifi connection). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list: <https://www.gov.uk/government/publications/electric-vehicle-homecharge-scheme-approved-chargepoint-model-list>
17. Fire Service access and facility provisions are a requirement under B5 of the Building Regulations 2010 and must be complied with to the satisfaction of the Building Control Authority. A full plans submission should be made to the relevant building control body who have a statutory obligation to consult with the Fire and Rescue Service.
18. The applicant is advised to engage with Kent County Council's Public Rights of Way and Access Service to ensure there will be a "smooth" transition from within site to offsite.
19. Due to the close proximity of the proposed works to Network Rail's land and the operational railway, the developer is advised to follow Network Rail's 'Asset Protection Informatives for works in close proximity to Network Rail's Infrastructure' and to engage with Network Rail's Asset Protection and Optimisation (ASPRO) team prior to works commencing.
20. The applicant is advised that the occupation of the development should be phased and implemented to align with the delivery by Southern Water of any foul sewerage network reinforcement required, to ensure that adequate wastewater network capacity is available to adequately drain the development.
21. Southern Water can facilitate surface water run off disposal (5 l/s at manhole reference TQ69575353) to service the proposed development. Southern Water requires a formal application for a connection to the public surface water sewer to be made by the applicant or developer. To make an application visit Southern Water's Get Connected service: <https://developerservices.southernwater.co.uk/> Reference should also be made to the New Connections Charging Arrangements documents: <https://www.southernwater.co.uk/developing-building/connection-charging-arrangements>
22. Under certain circumstances SuDS will be adopted by Southern Water should this be requested by the developer. Where SuDS form part of a continuous sewer system, and are not an isolated end of pipe SuDS component, adoption will be

considered if such systems comply with the latest Design and Construction Guidance (Appendix C) and CIRIA guidance available at:

<https://www.water.org.uk/sewerage-sector-guidance-approved-documents>

<https://ciria.org/ItemDetail?iProductCode=C753F&Category=FREEPUBS>

23. It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.
24. In relation to the discharge of water from the site access road, which falls to the north and away from the main basin, it is recommended the following hierarchy is used when determining the final drainage strategy for this section of the site:
1. Have this area directly infiltrate
 2. Drain to surface water sewer
 3. Connect to Highway drainage subject to adoption of the below ground drainage.
- Please note any connection / outfall into assets under the control of the highway authority can only do so by entering into a s.115 agreement between the Highway Authority and Statutory Sewerage Undertaker under the Water Industry Act 1991. For this to be possible, the on-site drainage networks must be adopted by a Statutory Sewerage Undertaker - connections from privately maintained drainage systems are not accepted. The developer must demonstrate that the highway drainage system discharges via a positive outfall (i.e. into a watercourse or public sewer) and that the proposed flows do not result in an increased flood risk to the public highway or elsewhere. Any necessary upgrades to the drainage network will be the developer's responsibility to deliver prior to any discharge of surface water taking place. Please contact drainageta@kent.gov.uk with any queries or for further information.

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