

Platt

TM/24/00078/PA

Borough Green And Platt

Location: 119 Land South Of Windmill Hill Wrotham Heath Sevenoaks TN15 7SX

Proposal: Removal of soil bund and erection of 1x 3 bedroom detached dwelling with associated parking and landscaping

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1. Description of Proposal:

- 1.1 The application seeks planning permission for removal of an earth bund and the erection of a detached dwelling and associated driveway and parking. The form of the dwelling would be flat roofed and curved to respond to the topography of the site following the removal of the bund.
- 1.2 The dwelling would be laid out over two levels with primary open plan living space (kitchen/diner/sitting room), two bedrooms and a study on the ground floor and a third ensuite bedroom on the first floor. This bedroom would open out onto a composite timber roof terrace with a metal balustrade.
- 1.3 The dwelling would be finished externally with timber cladding and a sedum roof with zinc fascia.
- 1.4 An access driveway would follow alongside the route of the existing track from Windmill Hill with parking provision for at least three cars to the north of the dwelling.

2. Reason for reporting to Committee:

- 2.1 Serving Councillor Adem Mehmet is acting as the agent for the applicant (Wrotham Heath Golf Club) and in accordance with Part 5, Protocol E8.6 (Members' Planning Code of Good Practice) of the Tonbridge and Malling Borough Council Constitution, the application needs to be determined at the relevant Area Planning Committee because objections have been received on the application.

2. The Site:

- 2.1 The site is situated in the Metropolitan Green Belt, in a rural setting outside of the built confines and settlement of Platt, approximately 1.6 km (1 mile) by road to the west of the site.

- 2.2 Wrotham Heath Golf Club owns the site, which is stated in the application as being surplus to their requirements. It lies immediately adjacent to the eastern boundary of the golf course. Access to the site is through an existing five bar field gate on the eastern side of Windmill Hill. A track leads from the gate for approximately 50 metres before joining with the golf course. PROW MR295 also follows the route of this track. The site is on the northern side of the track and PROW.
- 2.3 The agent describes the site as comprising of an artificial soil 'bund' that has been formed from soil deposits on the land from over 10 years ago when another development took place and spoil from the development was deposited on the land. The 'bund' is a heavily vegetated area of trees, bushes and scrub growing on this area of raised ground. A bare earth track is on the steeply sloping side of the bund to an opening in the vegetation at the bund's centre.
- 2.4 The site is partly designated as Ancient Woodland and is also part of the Valley Wood and Wrotham Golf Course Local Wildlife Site.
- 2.5 The area retains a generally rural character with surrounding land uses including the golf club to the east and sporadic residential development in the form of detached houses and gardens to the north, south and west. This is interspersed with areas of woodland.

3. Planning History (relevant):

05/00690/FL

Grant With Conditions - 23 May 2005

Enlargement of existing teeing grounds for the 12th 13th 17th and 18th tees

03/02108/RD

Grant - 14 August 2003

Details of archaeological programme of works pursuant to condition 2 of consent ref: TM/01/03387/FL (enlargement of teeing grounds for 5th, 6th, 7th and 8th tees)

03/00821/RD

Grant - 14 May 2003

Details of landscaping submitted pursuant to condition 3 of consent ref: TM/01/03387/FL (enlargement of existing teeing grounds for 5th, 6th, 7th and 8th tees)

01/03387/FL

Grant With Conditions - 13 June 2002

Enlargement of existing teeing grounds for the 5th, 6th, 7th and 8th tees

93/00920/RM

Approved - 12 February 1997

Details of ecological report submitted pursuant to condition 3 (part) of permission TM/92/1119FL - use of land as extension to golf course (from 11 to 18 holes)

93/00919/RM

Approved - 12 February 1997

Details of landscaping and boundary treatment and surfacing and reinstatement of footpath submitted pursuant to condition 03 (part A only) and 15 of TM/92/1119 (use of land as extension to golf course)

92/00552/FL

Grant With Conditions - 17 December 1992

Renewal of permission TM/86/1160 for the use of land as extension to golf course (from 11 holes to 18 holes)

86/10122/FUL

Grant With Conditions - 28 November 1986

Use of land as extension to Golf Course.

58/10933/OLD

Refuse - 09 January 1958

Outline Application for Residential Development. Valley Wood Wrotham Heath, Platt

54/10426/OLD

Refuse - 02 December 1954

Outline Application for Three Detached Dwellings and Access. Windmill Hill Platt

4. Consultees:

4.1 Parish Council:

Platt Parish Council objects to this application due to it being in the Green Belt.

4.2 KCC Ecology

Summary of first consultation response:

Ancient Woodland

- The site is within the Valley Wood and Wrotham Golf Course Local Wildlife Site (LWS) and partly within the Valley Wood Ancient replanted Woodland (AW).

- The importance of retaining Ancient Woodland is detailed within NPPF. It is our understanding that the proposed development will result in the felling of many trees and the removal of soil bund which could be part of the AW.
- If TBMC is considering granting planning permission they must be satisfied that the benefits of the proposed development clearly outweigh the loss and deterioration of the AW within the site boundary and that a suitable compensations strategy has been submitted.

Habitat of principal importance

- The PEA report describes a small section of the site as being deciduous woodland which is habitat of principle importance.
- The report also states that 0.167ha of the priority habitat will be lost by the proposed development and that indirect effects from construction could result in damaging the retained habitat.
- However due to time constraint of the PEA survey, no information has been submitted with the PEA report specifically about the current quality or extent of the habitat of principle importance.
- As such, it is recommended that a full phase 2 botanical survey is carried out to find out what species the site contains and make specific recommendations to mitigate for the habitat loss.
- We consider that currently the development doesn't appear to be adhering to the 'avoid, mitigate, compensate' hierarchy as supported by the NPPF. As the development is resulting in the loss of this habitat, we would request that any details of mitigation and compensatory measures are proportionate and achievable.
- The botanical survey, any additional surveys, and a mitigation strategy should be submitted prior to determination of the planning application.
- Currently we advise that there is insufficient information submitted to enable TMBC to fully consider the impact on the habitat of principal importance.

Invasive species

- The submitted ecological report has outlined that there is the presence of rhododendron scrub on site. Rhododendron is an invasive, non-native species under legislation of the Wildlife and Countryside Act 1981 (as amended). This legislation makes it an offence to plant or otherwise cause it to grow in the wild. The rhododendron scrub will be removed during construction works and could result in the spread of the invasive species into the surrounding woodland if left un-treated. Therefore we advise that full eradication is carried out prior to any development taking place.
- The required botanical survey should make recommendations on the containment, control and removal of rhododendron on site.

Biodiversity Net Gain and Ecological Enhancements

- At present we cannot confirm that biodiversity will be enhanced and maintained on the proposed development site.

Summary of second set of comments following submission of a Botanical Survey:

- Additional information is required prior to determination and the submitted information must consider the construction and operational phase of the proposed development.
- Cannot confirm that the current ecological features of the Ancient Woodland and habitat of principal importance will be retained and mitigated/compensated for the following reasons:
 1. The proposed development will result in the degradation and loss of deciduous woodland habitat of principal importance and ancient woodland but no mitigation/compensation measures have been proposed.
 2. The Natural England/Forestry Commission standing advice of a minimum 15m buffer zone between the development and ancient woodland has not been applied.
- The submitted ecological report has outlined that there is the presence of rhododendron scrub on site. Rhododendron is an invasive, non-native species listed under schedule 9 of the Wildlife and Countryside Act 1981 (as amended). This legislation makes it an offence to plant or otherwise cause it to grow in the wild. If left un-treated, the development will cause the spread of the plant elsewhere, especially that it will be removed during construction works and could result in its spread into the surrounding woodland. Therefore we advise that full eradication is carried out prior to any development taking place. It is recommended that an informative is attached to any granted planning application.
- We agree with the conclusions of the Preliminary Ecological Appraisal which state that it is unlikely that amphibians, reptiles, bats, badgers, dormice and nesting birds will be impacted by the proposed development. However their presence cannot be ruled out and as such we are satisfied that a precautionary mitigation strategy could be secured by condition.
- This planning application is exempt from Biodiversity Net Gain (BNG) as it was submitted before BNG requirements became compulsory.
- Enhancement features are not considered as part of a measurable net gain; however, in addition to the measurable net gains we expect enhancement features to also be incorporated into an enhancement plan within the red line boundary. These can include bat and bird bricks/durable boxes, log piles, hibernacula, and hedgehog homes, as well as generous native planting.
- At present we cannot confirm that biodiversity will be enhanced and maintained on the proposed development site. We advise that a landscaping plan is secured

with a condition if planning permission is granted and incorporates bat and bird bricks and generous native planting.

4.3 West Kent Ramblers:

- Concern about adjacent PRoW MR295 and nearby MR257. The applicant has responded 'No' to the questions on the planning application:
 - 'Are there any new public rights of way to be provided within or adjacent to the site?'
 - 'Do the proposals require any diversions/extinguishments and/or creation of rights of way?'
- This is not correct. The proposed development impinges upon MR295 on to which it abuts to the south of the development site. If the development went ahead, it is entirely possible that the applicant or future owner would apply for a diversion or extinguishment of the PRoW on the grounds of security and privacy concerns.
- There could be knock-on effects on MR257 a little further to the south.
- The applicant does not disclose any discussions which may have already taken place with KCC regarding the impact on these PRoW.
- West Kent Ramblers would seek to oppose any degradation to the existing PRoW network in this area.

4.4 Environmental Health Protection:

Contaminated Land

- Concerns about the soil bund on site due to the lack of clarity as to its origin and composition. It may contain materials that could pose a risk to future site users and require appropriate waste disposal methods. At this time, due to lack of information to allow me to make an informed decision, I would request the following conditions:
- Standard Contamination 1 (no phasing) (Site Characterisation)
- Standard Contamination 2 (no phasing) (Submission of Remediation Scheme & Implementation)
- Standard Contamination 3 (no phasing) (Verification)
- Hours/bonfires informative

4.5 Neighbours: 12 objections; 8 support.

4.6 Summary of objections:

Principal

- Set a precedent.
- Not allocated in Local Plan for housing.
- The site does not form an exception to Green Belt protections because the site does not contain previously developed land.

- The sand bund formed from waste/spoil from other developments does not constitute previously developed land.
- It does not meet the intention or definition of previously developed land.
- The bund was created by the golf course and is not an original feature of the land.
- The bund is very large and would require a lot of earth moving to clear it using heavy plant, which would be disproportionate for a single dwelling.

Visual amenity

- Proposed house would be over 5m high and would have a big impact as it would be clearly visible from the road, golf course and from neighbouring land.
- No visualisations are given looking from the road.

Residential amenity

- Noise, light and overlooking concerns.
- Concern of noise from heat and/or drainage pumps.

Highways and parking

- The road is unsuitable for heavy construction traffic.
- Any development will cause damage to the local road, the banks of Windmill Hill, its protected hedgerows and to land owned by others.
- The site is very small compared to other properties on the road and will be unable to offer a significant turning for visiting large vehicles.
- Proposed three parking places on the site is insufficient.
- There is no possibility of any on road parking in the vicinity due to the narrow lane.
- Potential for causing road/public footpath blockages from occupant's vehicles and visitors.

Footpaths

- Development would increase danger to pedestrians using Windmill Hill (The Weald Way) and the public footpath.
- It is unclear how the development will affect public footpaths.
- Risks to pedestrians and animals especially those using the Weald Way walking route.
- Many local people walk their dogs along Windmill Hill.

Ecology

- Harmful impact on biodiversity.
- Trees would be removed.
- Ecological appraisal is inconclusive, some conclusions are flawed and it relies heavily on significant caveats.
- The dense vegetation on the bund provides a good habitat and should be left undisturbed.

- The site contains areas of trees classified as ancient woodland which should remain untouched.
- The site is heavily shaded for much of the day and solar panels on the roof will not be efficient.
- Insufficient land on site for a ground solar installation.
- Unclear if the existing infrastructure can even support any new dwellings.
- Dated local services and utilities (electricity network, internet capacity, lower water pressure and no connection to sewers).
- Unclear where any drainage fields for sewage could be.

4.7 Summary of support:

- The golf club is a member's club and there are limited means of funding much needed improvements to the clubhouse.
- Proposed development is vital for securing funds to aid the longevity of the golf club.
- The clubhouse is leased from the Diocese of Rochester who have stated they are not interested in volunteering funds.
- This planning permission is therefore the only viable option for funding the improvements.
- The proposed development minimises impact and is in keeping with the rural setting.
- High quality design.
- Any surplus soil etc could be used or redistributed within the boundaries of the golf course.
- Only scrub would be affected that has grown over the past 10 years.
- The mature trees are only on the periphery and would remain.
- Proposed development will not impact the ancient woodland.
- Services including water supply are excellent in the area.
- Other developments have been successfully carried out along the lane.

5. Determining Issues:

Principle of Development

- 5.1 The starting point for decision making, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990, is the adopted development plan. Decisions should be taken in accordance with the policies in such plans, unless material considerations indicate otherwise.
- 5.2 The site lies in the countryside. Policy CP14 of the TMBCS seeks to restrict development in the countryside and whilst this local plan policy lists a number of

exceptions, the proposal does not fall within one of these exceptions. The proposal is therefore contrary to the Local Plan in this regard.

- 5.3 TMBC cannot presently demonstrate a five-year supply of housing and consequently, in accordance with paragraph 11 d) and footnote 8 of the NPPF, much of the development plan is out of date for the purposes of determining applications for new housing development.
- 5.4 The tilted balance in paragraph 11 d) of the NPPF states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of- date, planning permission should be granted 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.
- 5.5 Footnote 7 provides a list of those policies that relate to protected areas and assets of particular importance. These include amongst other things Green Belt and irreplaceable habitat such as ancient woodland, in which the site lies. It must therefore first be established whether the proposed dwelling is acceptable regarding these protected areas.

Green Belt

- 5.6 The site lies within the Green Belt, where policy CP3 of the TMBCS applies. This policy states that national Green Belt policy will apply. Paragraphs 152 – 155 of the NPPF relate specifically to proposals that affect the Green Belt.
- 5.7 Paragraph 152 of the NPPF states that ‘inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 5.8 Paragraph 153 of the NPPF states that ‘substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 5.9 The Planning Statement states:

In this case, due to the presence of the large artificial soil bund, which would have constituted operational development when formed, it is considered that the site can be considered previously developed land.

5.10 The applicant is therefore citing exception g) of paragraph 154, which states:

(g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- not have a greater impact on the openness of the Green Belt than the existing development; or
- not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

5.11 Whilst the soil bund may have been deposited on the land at some previous point in time, it is not considered 'previously developed.' This can be assessed in relation to the NPPF definition of previously developed land that is given in Annex 2: Glossary:

5.12 *Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.*

5.13 The Planning Statement also states:

Given the size and scale of the bund, and its appearance as an incongruous feature on the landscape, it is considered that the openness of the Green Belt would be preserved by its removal and replacement with a dwelling of comparable size.

5.14 Upon inspection of the site by the Case Officer, it was clear that the bund is substantially overgrown with a wide variety of vegetation. It is now so embedded into the landscape that it would not be readily discernible as anything other than a raised area of ground that is part of the natural landscape. Consequently, it is not accepted that the bund has the appearance of an incongruous feature in the landscape.

5.15 The reasons why the application site does not constitute 'previously developed land' test are three-fold:

- a) There is no evidence of any intention that the soil bund was placed there for any operational development purposes and there is no evidence of it being given planning permission as development.
- b) Even if operational development has occurred as alleged, annex 2 of the NPPF is clear that only certain types of development could cause a site to become previously developed; these include a permanent structure, and any associated fixed surface infrastructure. None of these are presented on site. The soil bund could not reasonably be treated as a structure or an infrastructure. Hence, the site would not qualify as previously developed land in any event.
- c) The soil bund is now so overgrown and established that it has effectively blended naturally into the landscape.

5.16 The proposal therefore lacks any of the very special circumstances required to outweigh the identified definitional, spatial and visual harm caused by the proposed dwelling.

5.17 Paragraph 142 of the NPPF states that the essential characteristics of Green Belts are their openness and permanence. The proposal would create a new permanent and substantial building on land currently open and undeveloped. The presence of a development of this scale and nature would erode the sense of openness in both spatial and visual terms. Moreover, by developing the site for housing, it would undermine the ability of the application site to fulfil its intended Green Belt purposes. The site once developed would no longer be able to assist in safeguarding the countryside from encroachment. For these reasons, the proposal would be inappropriate development, by definition, harmful to the Green Belt and would not be supported other than in very special circumstances.

5.18 The Planning Statement suggests that removal of the soil bund would be of benefit to the health and viability of the trees forming part of the woodland and to the surrounding landscape. The proposal would also contribute towards the supply of new home and the vitality of golf club. These collectively are put forward as very special circumstances to justify the proposal.

5.19 Whilst noting the argument made, the need to achieve high quality design and enhance biodiversity is a policy requirement and therefore compliance with the relevant policies is a prerequisite for it to be acceptable instead of a benefit that could be weighed against the harm to Green Belt and other harm identified elsewhere in this report.

5.20 The proposal would contribute positively towards the supply of new homes, but this contribution would be modest in relation to the identified shortfall in housing land supply. In relation to the viability of the golf club, there is no evidence to suggest the club is currently financially unviable. There are multiple avenues by which extra

funding and income could be secured or generated, irrespective of the current proposal. There is also no guarantee that the income levied through this development would be reinvested into the golf club to ensure its ongoing viability.

- 5.21 Concluding on the principle of development, the proposal would not fall to be considered any of those exceptions listed in Paragraphs 154 and 155 of the NPPF and hence would be inappropriate development, by definition, harmful to the Green Belt. It would by reason of its scale, nature and siting erode the sense of openness in both visual and spatial terms and would make the application site less effective in performing in its intended Green Belt purposes.
- 5.22 Furthermore, whilst noting the nominal benefits put forward in the Planning Statement, none of them would individually or collectively outweigh the harm to Green Belt by reason of the inappropriateness of this development and other harm highlighted elsewhere in this report. As such, very special circumstances have not been satisfactorily demonstrated in accordance with Paragraph 153 of the NPPF. To permit the development in its current form is considered to be unduly detrimental to the essential characteristic and purposes of the Green Belt, contrary to Policy CP3 of the TMBCS and Chapter 13 of the NPPF.
- 5.23 Applying the Green Belt policies in the Framework would provide a clear reason for refusing the development proposed. The tilted balance set out in Paragraph 11 d) could thus be disengaged in this instance.

Sustainability

- 5.24 Paragraph 8 of the NPPF states that achieving sustainable development means that the planning system has 3 overarching objectives, which are 1) economic, 2) social and 3) environmental. In this case, the main ones are considered to be social and environmental objectives. The social objective is to provide a sufficient number and range of homes to meet the needs of present and future generations; and by fostering well-designed beautiful and safe places, with accessible services. The environmental objective is (inter alia) to protect and enhance our natural, built and historic environment; including making effective use of land and improving biodiversity.
- 5.25 Paragraph 60 of the NPPF sets out that, to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
- 5.26 Paragraph 70 of the NPPF acknowledges that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. It adds that LPAs should support the

development of windfall sites through policies and decisions, giving great weight to the benefits of using suitable sites within existing settlements for homes.

5.27 Paragraph 84 of the NPPF states Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
- b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
- c) the development would re-use redundant or disused buildings and enhance its immediate setting;
- d) the development would involve the subdivision of an existing residential building;
or
- e) the design is of exceptional quality, in that it:
is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

5.28 The site is not within an existing settlement and is not in particularly close proximity to access Platt at approximately 1.6km distance along rural roads. There are several sporadic dwellings in the area, so the proposed dwelling would not be isolated from other dwellings.

5.29 Small windfall sites together with other windfall sites in the Borough make an important contribution to housing supply. In this regard the site could be considered to achieve sustainable development and aligns with the with the aims of paragraphs 70 and 84 of the NPPF. Consequently, the development should not be refused on sustainability grounds.

Character and Appearance

5.30 Paragraph 180 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

5.31 Policy CP24 of the Core Strategy states that all development must be well designed and of a high quality in terms of detailing and use of appropriate materials, and must through its scale, density, layout, siting, character and appearance be designed to respect the site and its surroundings.

- 5.32 The site is within a wooded area on the eastern side of Windmill Hill that overlooks the golf course and a public right of way. There are sporadic numbers of other buildings that are either residential or agricultural in nature so that in appearance the road is largely viewed as a tree and hedge lined undeveloped country lane. Therefore, the overwhelming visual character is of being within the open countryside, outside of the nearest settlement.
- 5.33 The retention of existing mature vegetation would offer some screening from the road but only provide effective screening when in full leaf. Significant clearance of the site to facilitate the development would open up views into and through the site. Any further tree and hedgerow planting would not be sufficient to wholly screen the development in the same way as the trees intended for removal. Nor should this be relied upon to do so. The magnitude of change in character and the degree of visual harm to the rural setting would detract from the wooded character of the area and would undoubtedly turn the site from an undeveloped wooded area to a domestic site that would urbanise it, with the loss of open land.
- 5.34 The elevated position of the site would also allow the development to be particularly visible from the golf course and the public right of way that runs alongside the development site and across the golf course. It would become a stark and prominent addition to this rural setting, particularly by reason the choice of design.
- 5.35 In respect of the design of the dwelling, it is too stark and inappropriate for the prevailing context i.e. within a tree lined country lane on one side and an exposed countryside location from the golf course and public right of way on the other side.
- 5.36 The use of plain, rectangular forms and flat roofs is out of character with the local vernacular. The design is lacking in any detailing or articulation. The facades are devoid of any architectural features of interest, and the overall appearance is bland and boxy with large expanses of cladding, glass and a proliferation of window openings used for the elevations. The overall design lacks any sense of place or identity and has no special or outstanding architectural merit, contrary to the assertion presented in the Planning Statement.
- 5.37 In terms of landscaping, the application is not supported by a landscaping scheme. Whilst this could be secured via condition, it is noteworthy that by virtue of the topography of the land and siting of the proposed dwelling, any additional landscaping would do very little to mitigate the significant visual harm identified earlier.
- 5.38 In conclusion, it is considered that the proposed development would lead to erosion of the rural landscape through domestication of a site currently open, undeveloped forming integrate part of an ancient woodland in the countryside. It would result in unacceptable visual harm to the visual amenity of the rural setting and the wider landscape. With no overriding justification of the site for residential purposes, it is

concluded that the proposal would cause significant harm to the character and appearance of the area. The proposal fails to comply with Policy CP24 and paragraph 180 of the NPPF, which requires planning policies and decisions to contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. Consequently, the development should be refused on visual amenity grounds.

Residential Amenity

- 5.39 Paragraph 135 (f) of the NPPF states that planning policies and decisions should ensure that developments 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.
- 5.40 Policy CP1 of the TMBCS requires all new development to result in a high-quality sustainable environment and (inter alia) in determining planning applications residential amenity will be preserved and where possible enhanced.
- 5.41 In terms of impact upon neighbouring amenity, this would be considered to be acceptable were all other aspects in accordance with policies. The distances retained between the proposed dwelling and neighbouring properties is sufficient to prevent harm to neighbouring amenities in terms of overshadowing, loss of outlook or loss of privacy.

Quality of Accommodation

- 5.42 The Nationally Described Space Standards (NDSS) state that a 3-bed dwelling over two storeys should be a minimum of 102sqm in the case of 6 bed spaces. The proposed dwelling has a floor area of approx. 162 sqm, so it complies with the NDSS. All bedrooms meet the NDSS minimum bedroom standard of 11.5sqm. All habitable rooms would benefit from at least one reasonable sized window with an open outlook. The dwelling could provide the future residents a good standard of internal living arrangement and overall, is considered to achieve a satisfactory quality of accommodation.
- 5.43 The outdoor amenity space would surround the dwelling and provide the necessary degree of privacy. The amenity space would be commensurate with a dwelling of this size and it would provide the respective occupiers a good quality of accommodation.

Highway Safety and Parking Provision

- 5.44 Policy SQ8 of the MDE DPD states that development will only be permitted where there will be no significant harm to highway safety. Paragraph 114 of the NPPF requires development to promote sustainable transport modes, provide safe and suitable access to the site, the design of any road layout to reflect current national guidance and any significant impact on the highway to be assessed.

- 5.45 Paragraph 115 continues and states that development should only be refused on transport grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts of the development would be severe.
- 5.46 The submitted plans indicate the proposed vehicle access is via an existing access off Windmill Hill. The existing access has good visibility splays on either side and the proposal would not involve a new access onto the road.
- 5.47 A development of this scale would not materially impact upon the rural road network as it would only generate a small number of vehicular movements into and out of the already existing access, which would not significantly add to the existing situation. As such, it would not be prejudicial to highway safety or users of the highway.
- 5.48 The proposal includes provision of three car parking spaces in front of the property. Sufficient space is therefore seen to be achievable for a number of cars within the curtilage of the proposed dwelling.
- 5.49 Accordingly, the development would not have an unacceptable impact upon highway safety and parking provision, adhering to Saved Policy P4/12 of the TMBLP, Policy SQ8 of the MDE DPD and paragraphs 114 and 115 of the NPPF.

Biodiversity

- 5.50 The proposed development is within the Valley Wood and Wrotham Golf Course Local Wildlife Site (LWS) and partly within the Valley Wood Ancient Replanted Woodland (AW).
- 5.51 Policy NE2 of the MDE DPD seeks to protect, conserve and enhance the biodiversity of the Borough, whilst policy NE3 requires development that would adversely affect biodiversity to only be permitted if appropriate mitigation measures are provided.
- 5.52 Policy NE4 states that development that would result in the net loss or deterioration of woodland will only be permitted if all of the following tests are met:
- a) development cannot reasonably be located on an alternative site;
 - b) the need for development clearly outweighs any harm which may be caused to the ecological, archaeological and landscape value of the woodland; and
 - c) harm can be reduced to acceptable limits through the implementation of positive environmental mitigation measures within the site or by replacement planting elsewhere or enhanced management.
- 5.53 Policy NE4 also states that Ancient Woodland will be protected, and where possible, enhanced through improved management. Development that would adversely affect ancient woodland will not be permitted unless the need for, and benefits of, the development in that location can be demonstrated to override the harm that would be caused to the ecological and historical importance of the ancient woodland.

- 5.54 The pre-text to Policy NE4 states that within Tonbridge and Malling, there are 2558ha of ancient woodland. Nationally, ancient woodland is identified as a valuable and by definition, is an irreplaceable biodiversity resource. Development that would result in loss or deterioration will therefore not normally be permitted. The nature conservation value of woodland generally increases with age provided it is appropriately managed and consequently the diversity of species occurring in Ancient Woodland cannot be recreated by replacement planting.
- 5.55 This is supported by paragraph 180 of the NPPF, which requires the planning system to contribute to and enhance the natural and local environment. The importance of retaining AW is detailed within paragraph 186 c) of the NPPF which states: “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”.
- 5.56 Deciduous woodland is a habitat of principal importance and paragraph 84 of the OPDM Circular 06/2005 states that: Impacts to habitats of principal importance are: “Capable of being a material consideration in the...making of planning decisions.”
- 5.57 Therefore, it is Government policy to discourage development that will result in the loss of AW, as it is widely regarded as irreplaceable and has significant value due to the long history of woodland cover, with many features remaining undisturbed.
- 5.58 The application is accompanied by a Phase 2 Botanical Survey and a Preliminary Ecological Appraisal (PEA); all of which have been considered by KCC Ecology in the consultation response.
- 5.59 The findings of the botanical survey state that the bund is assumed to have been put in place prior to the 1980s, but it is certainly not an ancient feature. It is a clear made ground feature and contains a simplified community of bramble and nettle indicating at least part of the material is nutrient enriched. This forms a steep embankment and as yet, there is no evidence that ancient woodland indicators have colonised (although only a springtime visit can confirm this).
- 5.60 However, it seems that it has been deposited in the past over former AW soils which are preserved underneath and seem to carry restoration potential. It should be noted that the Natural England Standing Advice states ‘wooded continuously’ does not mean there’s been a continuous tree cover across the whole site. Not all trees in the woodland have to be old. Open space, both temporary and permanent, is an important component of ancient woodlands.
- 5.61 The proposed development would result in the felling of many trees in the ancient woodland, which falls to be considered, for the purpose of paragraph 186 c) of the NPPF, an irreplaceable habitat. Whilst there is only a strip along the east of the

proposed development that is annotated in the Council's GIS as AW, the botanical survey states that the woodbank along the road is likely to be AW too. This observation is supported by the data on Natural England Magic Map, which shows the entire site as being an AW.

- 5.62 The Natural England/Forestry Commission standing advice states that there should be a minimum 15m buffer zone between development and AW. This includes residential gardens, which on the proposed plans, it clearly shows that the proposed development is within the 15m buffer and that no buffer zone has been suggested.
- 5.63 When considering whether or not to grant planning permission, the LPA must be satisfied that the benefits of the proposed development clearly outweigh the loss and deterioration of the AW within the site boundary and that a suitable compensation strategy has been submitted, which in this case has not been provided.
- 5.64 The PEA report describes a section of the site as being deciduous woodland, which is a habitat of principal importance. At least 0.167ha of the habitat of principal importance would be destroyed by the proposed development and that indirect effects from construction would potentially cause damage to the retained habitat.
- 5.65 The PEA did not identify the presence of any protected species or notable plant species on the site, but it did state that the site had been surveyed in a sub-optimal period for surveying and such species may not have yet been visible. The PEA states that due to the presence of woodland, scrub, dead wood and brash piles, a variety of fauna may well use the site including common amphibians, reptiles, foraging bats, hedgehogs, nesting birds, foraging barn owls and common invertebrates. It is therefore important that due regard is afforded to the retention of this important habitat.
- 5.66 The botanical survey states that the retained habitat of principal importance would be damaged (degradation) if retained within residential gardens, which would be the case here.
- 5.67 The Natural England standing advice also highlights that development can have a negative impact due to a number of matters including (but not limited to) an increase in light, dust and noise.
- 5.68 In light of the advice received from KCC Ecology, it is concluded that there is not sufficient information to demonstrate that the development would not result in the loss of an irreplaceable habitat or harm to protected and priority species. The development proposal would not adhere to the 'avoid, mitigate, compensate' hierarchy as supported by the NPPF, as the development would likely result in the degradation and loss of Ancient Woodland, a habitat of principal importance and a Local Wildlife Site.

- 5.69 It is unlikely that any mitigation or compensatory measures be proportionate and achievable to avoid a degradation and loss of an irreplaceable habitat and habitat of principal importance of this scale.
- 5.70 In addition, no clarifications have been submitted on whether alternative sites, not in AW, habitat of principal importance or a LWS have been considered and justification provided for the current choice of location in the context of the surroundings. As such the proposed development does not comply with the requirements of Policy NE4 of the MDEDPD and Chapter 15 of the NPPF
- 5.71 In conclusion, it is considered that the proposed development would contrary to paragraph 186 c) of the NPPF and also Policies NE2, NE3 and NE4 of the MDEDPD. Consequently, applying the policy that protects irreplaceable habitat in the Framework would provide another clear reason for refusing the development proposed in addition to the Green Belt reason.

Contamination

- 5.72 Environmental Health Protection consider that whilst there is lack of information on possible contaminants at the site, further information could be sought by condition, if the development was acceptable in all other respects.
- 5.73 Whilst the application form indicates the dwelling would be connected to the mains sewer, there do not appear to be nearby sewer lines and no other method of foul water disposal is proposed. Nevertheless, if the development were acceptable, this could be dealt with by way of an appropriate planning condition.

Public Right of Way (PRoW)

- 5.74 The proposed development could impact upon PRoW MR295, which abuts to the south of the development site and also MR257 to the east.
- 5.75 Whilst I note West Kent Ramblers concerns, the plans show that both of the PRoWs have been considered and look to remain unaffected by the proposed development. Additional new hedging is also proposed along the existing public footpath to add screening and privacy.
- 5.76 If the development were acceptable in all other matters, a condition could be added to ensure the footpaths remain open and unobstructed both during the development works and after the development is complete.

6. Conclusion

- 6.1 The proposal would create a new house on land currently undeveloped and therefore would constitute inappropriate development, by definition, harmful to the Green Belt. It would erode the openness of the Green Belt and undermine the purposes of

including the site within it. The potential benefit of this development is noted but is not considered to clearly and demonstrably outweigh the harm to Green Belt identified above and other harm resulting from this development. As such, very special circumstances have not been satisfactorily demonstrated in accordance with the NPPF and the principle of development is not acceptable on this occasion.

- 6.2 The rural and undisturbed nature of the site would not lend itself to residential development. The proposal would result in an overtly domestic form of development within a rural countryside location. It would appear as an incongruous and intrusive built form wholly out of character with its immediate surroundings. This would be detrimental to the rural landscape character of the countryside.
- 6.3 The application has failed to demonstrate that the proposal would preserve and enhance the biodiversity, habitat of principle importance, a Local Wildlife Site and Ancient Woodland (AW) presented on site. Neither does it provide benefit that would clearly outweigh the loss and deterioration of the site's biodiversity. No mitigation or compensatory measures are proposed to avoid degradation and loss of the irreplaceable AW habitat and habitat of principle importance.
- 6.4 Notwithstanding the lack of a five-year housing land supply and consequently an up-to-date local plan, the application site sits in a protected area identified in Footnote 7 of the NPPF. For the reason given above, applying the Green Belt and biodiversity policies in the NPPF provides clear reasons for refusing the development proposed and as such the tilted balance set out in Paragraph 11 d) of the NPPF could be disengaged. The proposal is not considered represent a form of sustainable development as defined in the NPPF and is thus recommended for refusal.

7. Recommendation:

- 7.1 Refuse subject to the following:

Reasons:

1. The site lies within the Green Belt where there is a strong presumption against inappropriate development, as defined in Chapter 13 of the National Planning Policy Framework. The proposal would introduce a new building on land not previously developed and therefore would fall outside the scope of paragraph 154 g) of the NPPF relating to limited infilling and partial and complete redevelopment of previously developed land. It would constitute inappropriate development, by definition, harmful to the Green Belt and would not be permitted other than in very special circumstances. The additional bulk and massing resulting from this development would not only erode the sense of openness in both visual and spatial terms but also undermine the ability of the application site to assist in safeguarding the countryside from encroachment. There are no other considerations that could

clearly and demonstrably outweigh the harm to the Green Belt and other harm arising from this development. To permit the development proposal would thus give rise to a significant conflict with Policy CP3 of the Tonbridge and Malling Borough Core Strategy 2007 and Chapter 13 of the National Planning Policy Framework 2023.

2. The development proposal by reason of its scale and siting would result in the loss of trees forming part of an ancient woodland identified in the NPPF as an irreplaceable habitat and in the MDEDPD as a local wildlife site. The failure to retain a minimum of 15m buffer zone as per the relevant standing advice would put further pressure on and creating conflict between the remaining habitat and the proposed development, detrimental to the biodiversity and integrity of the ancient woodland. Moreover, the supporting documents fail to give adequate consideration to the development impact on protected and priority species and consequently to formulate appropriate mitigation and compensation measures reasonably necessary to make this development policy compliant. These shortcomings would collectively give rise to a significant adverse impact on the ancient woodland and biodiversity of the site surroundings and would put protected and priority species at risk of disturbance contrary to Policies NE2, NE3 and NE4 of the Managing Development and the Environment Development Plan Document 2008 and Chapter 15 of the National Planning Policy Framework 2023.
3. The proposal would result in an overtly domestic form of development within a rural countryside location which would appear as an incongruous and intrusive built form, detrimental to the prevailing character and appearance of the countryside and the wider landscape. To permit the development would therefore be contrary to Policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007 and paragraph 180 of the National Planning Policy Framework 2023.

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