
**East Malling, West Malling
and Offham**
East Malling

TM/22/01570/OA

Location: Land North East and South of 161, Wateringbury Road**Proposal:** Outline Application: All matters reserved except for access for the erection of up to 52 residential dwellings, including affordable housing, open space and landscaping, roads, parking, drainage and earthworks. New access to be formed from Wateringbury Road.**Go to:** [Recommendation](#)

1. Description of Proposal:

- 1.1 Outline planning permission, with all matters reserved for future considerations with the exception of access is sought for the development of up to 52 dwellings, of which 40 percent would be affordable. The development would be supported by associated open space provision and landscaping.
- 1.2 As the application is in outline form essentially this report is dealing with the principle of the development with all details, except for the general quantum of development and the means of access reserved for future consideration and, subject to approval of the outline planning application, subsequent planning applications.
- 1.3 The means of access is indicated as being in the northwestern corner of the site with alterations proposed to the existing traffic calming on Wateringbury Road to move the 20mph zone 10m to the south.

2. Reason for reporting to Committee:

- 2.1 At the request of Cllrs Tatton and Roud due to the site not being allocated for development, impact on wildlife, impact on traffic, not a sustainable site, impact on surrounding listed buildings and East Malling Conservation Area and inappropriate access.

3. The Site:

- 3.1 The site is an area of approximately 4.6Ha to the eastern side of Wateringbury Road. The site is outside but immediately adjacent to the village settlement boundary of East Malling.
- 3.2 The site consists of existing commercial orchards bound by tall shelterbelts. An overhead electricity pylon and pylon tower is located in the western part of the site and crosses the site in a north west top south east orientation and is a defining feature in the locality. A small woodland is beyond the north-east corner of the site.

3.3 The site is bound by two storey detached residential properties adjacent to Wateringbury Road and a small woodland to the north; Arable fields divided by tall shelterbelts to the east; residential gardens consisting of established vegetation to the south; and Wateringbury Road, Ivy Farm, Belvidere Oast Farm and no.122 Wateringbury Road Farmhouse to the west.

4. Planning History (relevant):

4.1 None relevant

5. Consultees:

5.1 PC: The comments of East Malling and Larkfield PC are attached to this report at appendix 1 due to their length.

5.2 PC: Teston PC: We ask you, please, to recommend refusal of this application on the grounds of:

- adverse traffic impact on an already difficult situation in East Malling's Conservation Area;
- highly questionable sustainability; and
- in reality, no need for this site, despite lack of valid Five Years' Housing Supply as, almost certainly, the Government's mandated housing requirement will soon be revised downwards – and probably substantially downwards.

5.3 PC: Waterinbury PC: Whilst this application is outside our parish Wateringbury Parish Council is very concerned over what would be an increase in traffic movements should permission be given. Vehicles travelling south would use Wateringbury Road and Red Hill and exacerbate the already identified high air pollution levels at the traffic lights. Equally vehicles travelling north from site would use the narrow East Malling High Street which already suffers congestion, and air pollution would be increased.

Wateringbury Parish Council fully supports the comments/objections from East Malling & Larkfield Parish Council and Teston Parish Council

5.4 KCC Highways: The comments of KCC Highways are attached to this report at appendix 2 due to their length.

5.5 KCC LLFA: No objections subject to conditions

5.6 KCC Heritage: Recommend the imposition of conditions relating to archaeology and archaeological landscapes

- 5.7 KCC Ecology: Due to the sensitive nature of these comments identifying the location of protected species they are not available for public inspection but a copy has been provided to Members.
- 5.8 KCC Economic Development: contributions sought towards education and community services – details included within the report.
- 5.9 Southern Water – No objections
- 5.10 EA: Thank you for consulting us on the above planning application. We have screened the application and have no objection in relation to groundwater and contaminated land.
- 5.11 Environmental Health: No objections subject to conditions relating to noise and contamination.
- 5.12 Conservation Officer: The heritage statement with the application gives a comprehensive appraisal of significance, impact and harm for the designated assets close to the site. The report is clear that it is only able to discuss heritage impact as an overall concept given the outline nature of the proposal. I would agree with the reports conclusions regarding impact on significance.
- However the document does not seem to consider the impact on 161 Watringbury Road. The site is located north, east and south of 161 Watringbury Road, a historic farmstead as identified on the KCC HER. You may wish to consider the historic farmsteads identified within the historic farmsteads category of the HER as being non-designated heritage assets for the purposes of the NPPF. The farmstead appears to retain a number of historic buildings including the farmhouse and a courtyard farmyard (KCC description). The farmstead is currently in open agricultural land. The setting of the farmstead will be harmed by the intensity of development to the North but will retain connection to the farmland to the east and south with the retention of the orchard. The harm would be less than substantial and towards the low end of the scale.
- 5.13 Leisure Services: No objection subject to the applicant entering into a S106 agreement to provide contributions towards off-site open space provision.
- 5.14 Natural England: No objection - Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.
- 5.15 CPRE: Due to the length of the comments these are attached as Appendix 3 to this report
- 5.16 Kent Police: No objections in principle.
- 5.17 West Kent PCT: Site would require developer contributions towards medical centre provision.

5.18 West Kent Badger Group: Due to the sensitive nature of these comments identifying the location of protected species they are not available for public inspection but a copy has been provided to Members

5.19 Private Reps: 238 objections received raising the following areas of concern:-

- There has been damage to a badger sett. Want an impartial/thorough assessment of developers assertions. No review of badger sett within submission
- Land is part of rural agriculture/Kent heritage – orchards. Considered to be of local scientific importance – a dwarfing grafted orchard pioneered by Robert Garner. Concerned about loss of irreplaceable land, agricultural land/countryside/impact on Garden of England.
- Loss of best and most versatile grade 2 agricultural land. Land should be used for providing food to address food shortages, to address climate change
- Farm is viable as existing – should be retained as such
- Detrimental impact on character/distinctiveness of area/landscape/rural gateway into village
- Detrimental impact on Conservation Area/Listed Buildings/setting of listed buildings/heritage of East Malling/adjacent heritage buildings/rural village setting (orchard, fields, hamlet, village).
- Loss of village/urban sprawl/reducing gaps between settlements
- Insufficient infrastructure, including roads, shops (none in East Malling village), public transport (bus recently cancelled/far away, infrequent trains, trains better at West Malling, no transport southwards, station inaccessible/upstairs), schools, doctors, dentists, social workers, midwife's, health visitors, water, sewage, refuse collection, emergency services, hospitals, East Malling station car park and communications – as existing and to serve this development and others
- Station has no parking and no disabled access. Limited train availability – once an hour apart from during peak times.
- Lots of traffic/congestion and insufficient highways infrastructure as existing (generally, Chapel Street, Wateringbury Road, High Street, Mill Street, New Road, Wateringbury crossroads, A20, West Malling bypass, Hermitage Lane, Rocks Road), increased traffic as existing, speeding, narrow roads, busy roads, lack of and narrow pavements, many collisions, road rage, pollution, vehicles becoming stuck and damaged on-street parked cars. Wateringbury Road is a main thoroughfare between A26 and A20, with limited other routes.

- More houses will result in more highways pressure, village cannot cope with more traffic, risk to human life, reduced air quality (also to Wateringbury crossroads), noise pollution, more accidents, damage to vehicles parked, damage/harm to listed buildings, harm to Conservation Area, will block emergency service vehicles. Need to consider cumulative impact of developments.
- Parking likely to be insufficient, no alternative parking elsewhere in this location/will cause highways visibility issues.
- Will be a strong reliance upon cars for this development. Contrary to CP1, CP2 and NPPF.
- New access is dangerous on such a busy and narrow road, close to a table top highways feature. Design does not consider actual vehicle speeds at this location. Unsafe pedestrian access due to parked cars, cars mounting pavement, narrow pavement and bins on pavement, unable to accommodate additional pedestrians – concerns with KCC Highways comments on pedestrian safety.
- Underestimates expected traffic generation by the development.
- Destruction of AONB
- Loss of Green Belt Land
- Site home to important wildlife and ecology. Concerned about loss of/impact on nature/wildlife/ecology. Impact upon bees/pollinators. Ecology report undertaken in February 2022 outside optimal season and therefore have concerns over the assessment. Report does not consider the spring and refers to outdated guidance. Report not suitable for a planning application – only a PEAR, contrary to CIEEM website. Full survey required up-front. No full survey of woodland – how would residents be prevented from accessing it.
- Does not meet 10% BNG
- Pollution high as existing (generally, Chapel Street), will make this worse
- Loss of huge number of trees – need these to combat global warming, their loss will damage the environment
- Site should be protected given global deforestation, global warming and food supply issues – proposal not carbon neutral/will do more harm than good.
- Climate change an existing problem, will become worse as a result of the development removing green spaces. Loss of CO₂ absorption and oxygen production. Contrary to Governments Net Zero emissions strategy, NPPF and TMBC Climate Action Plan.

- Site is a green lung to support surrounding development.
- Brownfield sites should be developed first
- Concerned about sheer amount of housing proposed in locality
- Design, appearance, layout, scale, siting, character, density and landscaping of development inappropriate for the locality. Should use vernacular materials if allowed. Conflicts with Policy CP24 and SQ1.
- Noise and disturbance.
- Setting a precedent
- Overlooking/Loss of privacy – contrary to Human Rights Act.
- Overshadowing
- Illustration not an accurate representation
- Loss of sunlight
- Unable to manage boundary/issues with access
- Too much development in this locality.
- People have moved out due to so much development.
- Concerned about loss of open space, countryside, clean air – what will happen to mental and physical health.
- Impact upon quality of life of existing residents
- Flooding – will this make it worse?
- Scheme just to make profit. Not for benefit of the local area.
- Lack of details regarding house types
- Disturbance from smells
- Resources relating to reservoirs
- Public health amenities
- Light pollution
- Application consulted/submitted when people less likely to notice

- Deter ramblers, cyclists and visitors to the area
- The site is not allocated for development
- Why is a site which was previously deemed not suitable for allocation in 2003 now suitable? Previous applications were refused – where is the justification?
- Lack of affordable housing. Need more affordable housing/question the affordable housing provision. Believe that TMBC previously advised site was not suitable for affordable housing due to lack of services – 40% provision is contrary.
- Issues with water entering water table
- Object to a delegated decision – should be heard at committee
- Development extends beyond the historical 17th century boundary of the village
- Sheer number of objections – shows development is not supported by community
- Lack of consideration for disabled people
- Does not encourage walking and cycling – not within walking distance of facilities, no footpath
- Development does not promote sustainable transport/accord with NPPF and local policies in relation to transport/highways. Too far from shops and no public transport.
- Proposed nature area will not work – will be affected by human activity
- Concerns over numbers and conclusions within highways/transport report, including expected trips and peak hours, especially given use of data for suburban locations. If applying expected higher number, severe highways impact expected. Should consider approved/being built developments also.
- How will open space be maintained
- Proposal not to build below power lines, just to gain favour of committee
- Cycle/pedestrian path is on land not owned by applicant/cannot be delivered
- One way in/out not acceptable in relation to emergency access.
- Need infrastructure improvements and detailed plan between all authorities. New towns should be proposed, away from existing settlements with their own facilities. Until this happens, existing settlements will become overdeveloped and strained, with disagreement between existing and new residents.

- Increased crime
- Loss of dark light/unlit area.
- Reduction in house value
- Construction traffic and noise concerns
- Arboricultural report does not address the loss of the orchard trees
- Disagree with sustainability statement given loss of trees
- Design and Access Statement does not truly reflect local houses
- It is not certain that developer will maintain buffer to the north-east boundaries
- Where is the demonstrated need for housing?
- Contrary to TMBC and national planning policy
- Lack of Local Plan/historic delivery of housing not reasons to justify this housing
- How often will Wateringbury Road be shut?
- Should focus on renovating empty/rundown properties.
- What demographic are the houses aimed at?
- Pre-app advice did not cite the East Malling Village Conservation Area Appraisal – development contrary to this. Also contrary to former Conservation Area study.
- Should retain an undeveloped gap between development and existing village confines.
- Change to character not localised – boundary treatment will not screen development/will harm the character of the area.
- An Air Quality Report should have been submitted
- If approved, request planning conditions relation to construction traffic, working hours, sustainable transport, traffic calming, pollution reduction and for traffic calming measures.
- Increased heat/urban heat island
- Lack of joined up planning between developments
- Development has the potential to block rainwater entering the ground and feeding the local stream. No mention of this in application.

- Development has been concentrated elsewhere in Borough recently, leading to traffic issues, this spreads it elsewhere.
- Can access cope with this traffic and other development traffic at peak hours?
- Council should publish proposal to improve traffic flows

6. Determining Issues:

6.1 Prior to the consideration of the proposal it should be noted that the Government is currently undertaking a consultation into revisions to the NPPF in light of the direction in policy being proposed in the Ministerial Statement 'Building the Homes we Need'. These revisions to the NPPF are at the consultation stage only and therefore do not carry any weight at this stage and the following discussion is based on the contents of the current December 2023 NPPF.

6.2 The Council cannot presently demonstrate a five year supply of housing when measured against its objectively assessed need. This means that the requirements of paragraph 11 of the NPPF (2023) fall to be applied. This sets out the presumption in favour of sustainable development which for decision taking 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 The development plan must remain the starting point for determining any planning application (as statutorily required by s38 (6) of the Planning and Compulsory Purchase Act 2006) which is overtly 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 The footnote to this paragraph defines 'the policies' as mentioned above 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. I will consider each in turn below.

Heritage Assets

- 6.5 The proposed development site is within the setting of heritage assets.
- 6.6 Paragraph 200 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 states 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, paragraph 205 states that 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.
- 6.9 Paragraph 208 goes on to state that 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.
- 6.10 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.
- 6.11 Annex 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.”

- 6.12 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.
- 6.13 The site is located outside of the Conservation Area boundary and is approximately 63m south of the southern boundary. The nearest listed building is on the opposite side of Watringbury Road (no. 122) with the site being to the north and east of the historic farmstead of Belvidere Oast. The separation is such that the application site is not considered to contribute to the character and appearance of the Conservation Area. Similarly, the setting of the listed building would not be affected due to the proposed development being set back from the opposite side of the road to the listed building, and also the retention of the existing boundary screening that is currently present. As such it is considered that any harm to designated heritage assets would be at the lower end of less than substantial.
- 6.14 The application site wraps round Belvidere Oast Farm. This complex of buildings is not listed but is recorded on the Kent Historic Environment records as a historic farmstead. This would therefore be considered as a non-designated heritage asset. The setting of the historic farmstead is currently an agricultural one and whilst the development would see built form added to the north of the farmstead the agricultural setting would remain to the south east and west. As such the level of potential ‘harm’ to the significance of the farmstead is considered to be very low. The proposed development would therefore not detract from the ability of the observer to recognise and appreciate the special interest of the listed building, the historic farmstead nor the East Malling Conservation Area and would therefore amount to less than substantial harm in NPPF terms.
- 6.15 On this basis it is considered that the works 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 and the NPPF (2023).

Flooding

- 6.16 Policy CP10 states that:

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

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

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

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

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

6.17 Paragraph 173 of the NPPF states that “When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

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

b) the development is appropriately flood resistant and resilient;

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

d) any residual risk can be safely managed; and

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

6.18 The site is within flood zone 1 and consequently has a low risk of surface water flooding. There are therefore no restrictive policies relating to flooding at the site.

6.19 It is considered that the NPPF tests regarding harm are therefore met and 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. It is on this basis that the remainder of the analysis, and the conclusions drawn, follow.

Locational characteristics and associated impacts

6.20 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.

- 6.21 The NPPF states at paragraph 7 that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 of the NPPF states that the planning system has three overarching objectives to achieving sustainable development, these being an economic objective, such as ensuring adequate land is available to support growth and enable the provision of infrastructure; a social objective, such as ensuring a sufficient number and range of homes can be provided to meet the needs of present and future generations as well as accessible services and open spaces; and an environmental objective, ensuring that effective use is made of land, helping to improve biodiversity and protecting and enhancing the natural, built and historic environment.
- 6.22 It is considered that the location of the site and the type of development proposed would be considered sustainable development under paragraph 8 of the NPPF and this is set out in greater detail throughout this report as necessary.

Character and pattern of development and impact upon visual amenities:

- 6.23 Policy CP24 of the TMBCS requires development to be of a high quality and be well designed to respect the site and its surroundings in terms of its scale, layout, siting, character and appearance. Policy SQ1 of the MDE DPD advises that new development should protect, conserve and, where possible, enhance the character and local distinctiveness of the area including its setting in relation to the pattern of the settlement, roads and surrounding landscape. These policies are broadly in conformity with those contained within the Framework which relate to quality of new developments.
- 6.24 In particular, paragraph 135 seeks to ensure that development:-
- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
 - c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
 - d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

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

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

6.25 Furthermore, paragraph 139 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. Conversely, significant weight should be given to development which reflects local design policies and government guidance on design.

6.26 With regard to landscape, effects on such matters as landscape designations, the landscape quality, scenic quality, rarity, recreational value and perceptual aspects and associations should be considered. The site is not covered by any statutory landscape designations.

6.27 The indicative development proposed indicates buildings of approximately 2 storeys in height focussed at the northern end of the site with open space and retained orchard to the south of the existing overhead power line that crosses the site. The existing landscaping in the form of the hedgerows and shelter belts on the site are indicated as being retained and enhanced with a 20m wide landscape buffer being provided around the north-eastern corner of the site to mitigate the impact of the development on local wildlife. The site is slightly lower than Watringbury Road to the west with this change in level and the retention of the existing boundary screening reducing the overall impact of the development on the surroundings.

6.28 Overall, it is 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 which would ensure that the proposed development would not result in significant harmful effects to the character and appearance of the area, nor its visual amenity.

6.29 On this basis it is considered that the proposed development is in accordance with CP24 of the Core Strategy, SQ1 of the MDE DPD and the NPPF.

Access and Highways

6.30 Policy SQ8 of the MDE DPD sets out that before proposals for development are permitted, they will need to demonstrate that any necessary transport infrastructure, the need for which arises wholly or substantially from the development, is in place or is certain to be provided.

- 6.31 It goes on to state that development proposals will only be permitted where they would not significantly harm highway safety and where traffic generated by the development can adequately be served by the highway network.
- 6.32 Development will not be permitted which involves either the construction of a new access or the increased use of an existing access onto the primary or secondary road network (as defined by the Highway Authority) where a significantly increased risk of crashes or traffic delays would result. No new accesses onto the motorway or trunk road network will be permitted.
- 6.33 Development proposals should comply with parking standards which will be set out in a Supplementary Planning Document.
- 6.34 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.
- 6.35 Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 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.
- 6.36 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.
- 6.37 The application proposes to have its vehicular access from Watringbury Road to the south of boundary with 51 Watringbury Road. The submitted transport assessment

has been assessed by KCC Highways and they have agreed that the development is likely to generate 24 two way movements in the AM peak and 26 two way movements in the PM peak, with the pattern being predominantly movements north through East Malling Village. Whilst it is acknowledged that some sections of East Malling High Street contain existing on-street parking arrangements which to some extent interrupt the flow of traffic the amount of additional traffic generated would equate to only one additional vehicle every three minutes. This increase in traffic would be viewed as modest and when considered alongside the good personal injury collision record along East Malling High Street there is no evidence that the additional traffic could worsen conditions to the point that could be reasonably described as severe or impact on highway safety. The findings of the traffic survey undertaken by the Parish are noted, these results do not alter the above position that the development could worsen existing conditions.

- 6.38 The siting of the access onto Wateringbury Road requires alterations to the existing traffic calming features present. To this end the application proposes moving the 20mph speed limit 10m to the south so that the site access is within the traffic calmed zone. The access has been subject to a full road safety audit with the design being viewed as appropriate. The comments regarding Wateringbury Road being of insufficient width to accommodate the access are noted however it is important to consider that there are no minimum standards for existing road widths and the proposed access has passed the road safety audit. The access design and the amendments to the existing traffic calming would be provided under a S278 agreement and overall, KCC Highways, as statutory consultee on these matters consider that there is no objection to the works and they are therefore considered to be acceptable.
- 6.39 The concerns of the adjoining resident regarding the visibility splays requiring the use of third party land are noted. It has however been confirmed by the applicant that the visibility splays are wholly within the applicants land and as such no third party land is required.
- 6.40 The comments regarding a right of access for boundary maintenance are also noted. This right of access is however a private legal matter rather than an issue that can be taken into consideration in the determination of a planning application.
- 6.41 On this basis I am satisfied that the development would not result in an unacceptable impact on highway safety and the residual cumulative impacts on the road network would not be severe. It would therefore not conflict in any way with Policy SQ8 of the MDE DPD or paragraphs 114-116 of the NPPF.

Archaeological matters

- 6.42 With regard to the impact on potential archaeological remains it is considered unlikely significant industrial heritage archaeology will be impacted by the scheme. There are elements of industrial heritage which merit specialist identification and assessment with options for recording and conserving where possible indicated in the submitted

assessments, but it is considered that such matters can be sought by condition. Similarly, the specialist geoarchaeological and Palaeolithic assessment submitted is considered a suitable base to guide mitigation and further fieldwork. These further matters can be covered by condition.

6.43 On this basis it is considered that the works 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 and the NPPF (2023).

Drainage

6.44 The site is within flood zone 1 and consequently has a low risk of surface water flooding. The submitted details indicate that drainage will be provided via attenuation basins and deep bore soakaways. Subject to conditions this approach is considered to be acceptable. With regard to foul water drainage this can be achieved with links to the public sewer system.

6.45 I am therefore satisfied that, with the suggested conditions, the development would accord with the requirements of Policy CP10 and the NPPF.

Contamination

6.46 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.

6.47 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.

6.48 In terms of land contamination, the submitted Phase 1 Desk Study and Preliminary Risk Assessment is considered to adequately review the history and environmental setting of the site. It adequately reviews the history and environmental setting of the site. Potential sources of contamination have been identified in relation to the site's previous use as an active quarry, and as such an intrusive investigation is recommended. These are considered satisfactory and conditions are proposed

requiring appropriate site investigation and (where necessary) appropriate remediation measures to take place. These conclusions have been agreed by the Council's Environmental Protection officer and accordingly a number of conditions have therefore been recommended to be imposed on any permission granted.

Air Quality

6.49 Concerns regarding air quality have been raised. Although monitoring has been undertaken there has not been a need to impose an Air Quality Management area in East Malling village. The quantum of development proposed is not likely to lead to there being a need to do so.

Ecology and Biodiversity

6.50 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.

6.51 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.

6.52 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.

6.53 These policies broadly accord with the policies of the NPPF. In particular, paragraph 180 states that planning policies and decisions should contribute to and enhance the natural and local environment by (inter alia) protecting and enhancing sites of biodiversity value and minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

6.54 The site and the surrounding area are not subject to any ecological designations. There are no nearby ecological statutory designated sites, whilst the nearest ecological non-statutory designation is Oaken Wood Local Wildlife Site, 3300m to the south.

6.55 Ecological reports have been submitted in support of the application. The findings indicate the site is predominantly a commercial orchard environment, having little ecological value due to the intensive manner in which it is managed (herbicide/pesticide use and high stocking density). The boundary hedgerows are

likely to have relatively high biodiversity value and also likely to be priority habitats. The submitted plans indicate that these boundary hedgerows are to be retained within the landscape buffer and the indicative layout shows that these would be outside domestic curtilages. Subject to the provision and retention of the landscape buffers within the sites biodiversity area 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.

- 6.56 With regard to protected species, the submitted ecological surveys have confirmed that badgers and at least 5 species of foraging bats are present and there is suitable habitat within the site for breeding birds, hedgehogs, reptiles and roosting bats. The survey work has confirmed that there is badger activity on the site and that an outlier sett is present within the site. There is a sett in woodland adjacent to the site and therefore mitigation measures are proposed to ensure that the development does not have a negative impact on badgers. These measures include the 20m ecological buffer to the main sett being comprised of woody planting. It is noted that the outlier sett within the site will need to be closed to enable construction to be carried out and this will be subject to an appropriate licence from Natural England. The application for this will need to be supported by further up to date survey work to ensure that the application is based on the current badger use of the site. Such a licence would need to be sought prior to any works being undertaken on the site and it should be noted that a grant of planning permission does not mean that a licence will automatically be granted.
- 6.57 The opposition to the development due to the presence of the badger sett is noted, however this would only form a reason for refusal if it could not be shown that appropriate mitigation measures could be provided. The KCC Ecology Officer has confirmed that they have no objection to the proposed 20m buffer to the sett. It is therefore considered that following assessment in accordance with all national guidelines the mitigation measures are appropriate to ensure that there is no adverse impact on the badger sett.
- 6.58 Due to the presence of bats and badgers at the site a condition is proposed to ensure that any lighting proposed is appropriately designed to limit the impact on nocturnal species.
- 6.59 The application was submitted prior to the requirement for mandatory biodiversity net gain. The applicants have nevertheless submitted an indicative biodiversity net-gain calculation indicating that a gain of approximately 30% is possible. The mechanism for securing this would be via a condition requiring a Landscape and Ecological Management Plan (LEMP) and such a condition is proposed as part of the recommendation.
- 6.60 The proposed development and mitigation scheme 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 to biodiversity are also proposed, in accordance with NPPF.

6.61 I am therefore satisfied that the development would have a net positive effect on habitats and biodiversity on the site through the provision of enhanced landscaping proposals which would be an overt benefit arising from the development. As such it is considered that the proposals will accord with all relevant national and local planning policy in relation to ecology including Policies NE1-NE4 of the TMBC Local Development Framework Core Strategy and the NPPF.

Developer contributions

6.62 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

6.63 Paragraph 57 of the NPPF reflects this statutory requirement.

6.64 The scheme proposes to provide 40% of the total number of dwellings as affordable housing and therefore accords with Policy CP17 of the TMBCS. The approval of the specific size, type and tenure of affordable housing and implementation of the provision will be secured under a S106 agreement to ensure that the provision comes forward in a manner that reflects and meets local need. The 40% affordable housing shall have a 70/30 split between affordable housing for rent and other affordable housing tenures.

6.65 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.

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

- £268,185.12 towards Secondary education provision
- £229,726.56 towards the provision of land for Secondary education
- £26,871.84 towards Special Education Needs provision
- £1,778.92 towards Community Learning provision.
- £3,554.40 towards Integrated Childrens' Services
- £3,256.76 towards enhancements and additional library book stock
- £9,405.76 towards Adult Social Care
- £2,704 towards waste and recycling provision within the borough.

No contribution is requested toward primary school provision

6.67 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.

6.68 NHS ICB have advised that due to the potential patient numbers a contribution of £52,704 towards refurbishment, reconfiguration and/or extension of Wateringbury and Thornhills Medical Practice and/or towards new general practice premises development in the area should be sought. Again, this requirement is considered to meet the necessary tests and should be secured within the final legal agreement.

6.69 TMBC apply open space contributions to developments of 5 dwellings and greater and therefore the outline development would be liable for a contribution subject to on-site open space provision covering the following; Parks and Gardens, Outdoor Sports Facilities and Childrens and Young Peoples Play areas. The final layout and landscape plan is reserved matter and therefore final contributions cannot be applied at this stage but would form wording in a section s106 legal agreement. The approximate level of contribution would be £233,560.

Planning balance and conclusions

6.70 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.

- 6.71 The proposed development would provide a policy compliant development of up to 52 residential dwellings. It would also provide 40% affordable housing on-site which would contribute to addressing a recognised need for affordable housing in the Borough.
- 6.72 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.
- 6.73 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 **Approve Planning Permission** subject to:

7.2 The applicant entering into a legal agreement in respect of:

- 40% affordable housing
- Off-site open space provision
- Education provision, community facilities and services (KCC Economic Development)
- General medical practice services (NHS ICB)

7.3 The following conditions:

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

Reason: No such approval has been given

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

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

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

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

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

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

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

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

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

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

5. Site Levels

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

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

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

Highways/Transport/Parking

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

Thereafter, no permanent development, whether or not permitted by Town and Country Planning (General Permitted Development) Order 2015, shall be carried

out on the land so shown (other than the erection of a private garage or garages) or in such a position as to preclude vehicular access to this reserved parking area.

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

7. No development, other than the demolition of any buildings, removal of hardstanding, ground investigations or site survey works, shall be carried out until details of the proposed car charging points have been submitted to, and approved by the Local Planning Authority. The charging points shall be installed prior to the first occupation of the development, and thereafter maintained and retained in accordance with the approved details.

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

8. The access drive shall be constructed no steeper than 1 in 10 for the first 1.5 metres from the highway boundary and no steeper than 1 in 8 thereafter.

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

9. The access shall not be used until the visibility splays shown on the submitted plans (drawing number: H-01 Rev P4 titled 'Access Proposal') with no obstructions over 0.6 metres above carriageway level within the splays have been provided. The vision splay so created shall be retained at all times thereafter.

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

10. No part of the development shall be occupied prior to the completion of the highways works indicated on drg. no. H-01 Rev P4 'Access Proposal' being completed by the applicant via S278/S38 Agreements and retained thereafter.

Reason: To ensure appropriate delivery of highway improvements required for the development.

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

(g) Provision of measures to prevent the discharge of surface water onto the highway

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

Drainage

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

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

13. Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon reviewed the Flood Risk Assessment dated June 2022 prepared by DHA. The submission shall also demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of within the site without increase to flood risk on or off-site.

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

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

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

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

14. No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate 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, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of the National Planning Policy Framework.

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

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

Archaeological

16. Prior to commencement of development the applicant, or their agents or successors in title, will secure the implementation of
- i archaeological landscape works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
 - ii following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological landscape remains and/or further archaeological landscape investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority

Reason: To ensure that features of archaeological landscape interest are properly examined and recorded and that due regard is had to the preservation in situ of important archaeological landscape remains and where possible the integration of key landscape features in the detailed masterplan and landscape design.

17. Prior to the commencement of development the applicant, or their agents or successors in title, will secure:
- i archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
 - ii further archaeological investigation, recording and reporting, determined by the results of the evaluation, in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority;
 - iii programme of post excavation assessment and publication.

Reason: To ensure that features of archaeological interest are properly examined, recorded, reported and disseminated.

Contamination

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

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

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

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

Reason: In the interests of amenity, public safety and human health and in accordance with paragraph 174 of the National Planning Policy Framework (2023).

19. Following completion of the approved remediation method statement, and prior to the first occupation of the development, a relevant verification report that scientifically and technically demonstrates the effectiveness and completion of the remediation scheme at above and below ground level shall be submitted for the information of the Local Planning Authority.

The report shall be undertaken in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. Where it is identified that further remediation works are necessary, details and a timetable of those works shall be submitted to the Local Planning Authority for written approval and shall be fully implemented as approved.

Thereafter, no works shall take place such as to prejudice the effectiveness of the approved scheme of remediation.

Reason: In the interests of amenity, public safety and human health and in accordance with paragraph 174 of the National Planning Policy Framework (2023).

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

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

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

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

Trees and landscaping

22. a) No development shall take place until details of the location, extent and depth of all excavations for services (including but not limited to electricity, gas, water, drainage and telecommunications) in relation to trees on and adjacent to the site have been submitted to and approved in writing by the Local Planning Authority.

b) The development shall thereafter be implemented in accordance with details approved under this condition.

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

23. a) A scheme of hard and soft landscaping, including details of existing trees to be retained and size, species/cultivar, planting heights, densities and positions of any soft landscaping, shall be submitted to and agreed in writing by the Local Planning Authority before the development hereby permitted is commenced.

b) All work comprised in the approved scheme of landscaping shall be carried out before the end of the first planting and seeding season following occupation of any part of the buildings or completion of the development, whichever is sooner, or commencement of the use.

c) Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be

replaced with trees or shrubs of appropriate size and species in the next planting season.

Reason: To ensure a satisfactory appearance to the development.

24. The development hereby approved shall be carried out in such a manner that all trees are protected in accordance with the recommendations within BS 5837 – Trees in relation to design, demolition and construction.

Reason: In the interests of good horticultural practice.

Biodiversity

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

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

The approved lighting plan shall thereafter be implemented as agreed.

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

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

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

27. With the first detailed application, a Landscape and Ecological Management Plan (LEMP) will be submitted to, and be approved by, the local planning authority. The content of the LEMP will be based on the Defra Biodiversity Net-Gain metric calculations and include the following.

- Full Defra biodiversity net-gain calculations;
- Description and evaluation of features to be created and managed;
- Ecological trends and constraints on site that might influence management;
- Aims and objectives of management;
- Appropriate management prescriptions for achieving aims and objectives;
- Preparation of a work schedule;

- Details of the body or organisation responsible for implementation of the plan, and;
- Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

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

28. Prior to the first occupation of the residential development, the buffer zone illustrated on plan reference Ivy Farm Parameter Plan (Ref 21.094-50- Rev B) shall be defined and clearly laid out for the intended purpose of creating an ecological/landscape buffer zone. The final appearance of the buffer shall be subject to the written approval by the Local planning authority in accordance with the Landscape and Ecological Management Plan subject of condition 27 of this outline planning approval.

Reason: to retain connectivity for animals such as the badger and other species.

Other Material Matters

29. Prior to the first occupation of the development hereby approved, a noise report detailing the current noise climate at the proposed site due to the close proximity of Watlington Road. The report should consider the levels cited in BS8233:2014, namely:

1. for gardens and other outdoor spaces, in particular those in para 7.7.3.2 which states a desirable limit of 50dB LAeq,16-hour, and a maximum upper limit of 55dB LAeq,16-hour; and

2. to at least secure 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 (ref para 7.7.2). Particular attention is drawn to the notes accompanying Table 4 in para 7.7.2 and that these levels need to be achieved with windows at least partially open, unless satisfactory alternative means of ventilation is to be provided.

The Applicant's attention is also drawn to the ProPG on Planning and Noise issued by the Association of Noise Consultants (ANC), the Institute of Acoustics (IoA) & the Chartered Institute of Environmental Health (CIEH).

The report should also detail any mitigation/attenuation measure needed to attain the abovementioned levels. It is important that the applicant's noise assessment includes specific data and we will require these details for approval

before any decision can be made. Specific details of any necessary noise insulation/attenuation requirements (e.g. acoustic glazing, acoustically screened mechanical ventilation, etc) will also need to be submitted for approval.

Reason: To safeguard the aural amenity of the occupiers of the dwellings hereby approved.

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

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

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

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

32. No development within any phase or sub-phase above ground level shall commence until details and samples of all materials to be used externally within that phase or sub-phase have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in strict accordance with the approved details.

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

Contact: Robin Gilbert