

**East Malling And Larkfield**  
East Malling West Malling  
And Offham

**18-Sep-2024**

**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

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## **1. Introduction:**

- 1.1 Members will recall that this application was reported to APC2 on 18 September 2024. At that meeting the planning application was deferred to enable a Conservation and further Case Officer report to be prepared in order to assess the impact of the proposed development on the East Malling Conservation Area and surrounding listed buildings and non-designated heritage assets, with due regard to be given to the East Malling Village Conservation Area Appraisal.
- 1.2 The Conservation Officer and the applicant have now had an opportunity to respond to this request with the findings reported below. The applicant has also taken the opportunity to review the position of the proposed access following the Member discussion on the relationship between it and the adjacent property. As a result of this the applicant has moved the access 4m further south away from the boundary with 51 Wateringbury Road.
- 1.3 It should also be noted that since the application was reported to committee, the application to regularise the garden extension to 51 Wateringbury Road (24/01631/PA) has been approved.
- 1.4 For Members assistance the original committee report is provided as an attachment to this additional report, as well as the previous appendices.

## **2. Consultees:**

- 2.1 East Malling and Larkfield PC: We are concerned that the applicant has proposed a 20 metre buffer from the woodland edge only. This appears not to take account of sett entrances on the site itself. We note from the West Kent Badger group report and photographic evidence submitted by members of the public that there are sett entrances within the orchard which encroach into the stated buffer zone. This means the 20-metre buffer stated by the applicant is in effect much less than stated.

Although Natural England themselves may not specify a buffer size in their guidance, we understand that it is the accepted standard by ecologists in England that 30 metres is allowed around badger setts to protect them and this is noted in the attached email from the KCC Ecologist to TMBC officers.

We note that the West Kent Badger group Report who we understand surveyed the sett in the woodland with the landowners permission have stated the following: The sett on the north-east edge of the site appears to be significant and entrance holes are both in the adjacent woodland and on the site itself (i.e. in the orchard) – approximately 6.5 metres from the site boundary. The proposed 20m ecological buffer in the north-east of the site will not be sufficient to protect the badger sett in this locality. A minimum of 30 metres is generally recommended.

Given the potential impact on the badger setts from this development, and significant loss of foraging habitat, we are not convinced that it would meet the following policies of the NPPF (2021) Paragraph 180 which states the following: *if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.*

This paragraph is additionally mirrored in Natural England's standing advice to Local Planning Authorities for badgers as part of a collection of standing advice for protected species, which also states that avoidance should be the priority over lesser mitigations. Given that this site is in effect a blank canvas, it is not clear why avoidance cannot be achieved in line with the NPPF.

We note that the planning applicant has stated in their latest submission that Natural England have raised no objections against the proposed badger mitigation plan, but we have had sight of correspondence from Natural England confirming that this is not the case.

Given that the sett on the site has been criminally interfered with and a police investigation undertaken, we would urge that if this planning application is approved that suitable conditions are set to protect the sett from further interference.

The Parish Council awaits to see any highway comments from KCC as to this change. However, as previously pointed out the orchard is at a lower level than Wateringbury Road which is about 1.5m higher. The edge of the pavement is indeed marked at its back edge with sandbags to mitigate the pavement falling into the orchard. These were placed in position by KCC Highways.

The site lines required would mean further trees along this boundary being removed. The Parish Council remains concerned due to the above difference in levels of the impact in terms of privacy and overlooking on No. 181 including their back garden. Also from headlights of vehicles using the new access shining into the windows of that property.

- 2.2 Wateringbury PC: Wateringbury PC strongly object as previously objected to by WPC, Teston PC and East Malling and Larkfield PC to build up to 52 houses for all the same reasons mentioned in the responses submitted in 2022 as they all still stand as valid objections
- 2.3 Historic England: On the basis of the further information, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.
- 2.4 Kent Highway Services: Note that a revised access plan has been submitted, which relocates the access 4 meters south of where it was previously proposed to locate it. No other amendments are proposed to the access strategy. I can therefore confirm that this authority's position remains as set out in the response of 4th July 2023.
- 2.5 Environment Agency: We have assessed this application as having a low environmental risk. We therefore have no comments to make.
- 2.6 KCC LLFA: We have no further comment to make on this proposal and would refer you to our previous response dated 11th August 2022
- 2.7 Natural England: Comments awaited.
- 2.8 Environmental Health: No objections.
- 2.9 West Kent Badger Group: Thank you very much for letting us know about the Badger Technical Note in relation to this development.

I have attached a copy of our previous comments where we asked if the access road could be moved a bit further south, should the development go ahead. This would mean the northern part of the site was not disturbed giving the badgers more protection and retaining some of their foraging habitat. It would also be beneficial for the bats recoded on site. We would still like this to be considered, rather than a licence obtained to undertake work within 20m of the sett.

The Technical Note says under the completed scheme, the sett will be retained within an ecological / landscape buffer. It would be helpful to know the size or nature of the buffer.

- 2.10 Conservation Officer: I have reviewed the application and the conservation area appraisal. I have also reviewed the heritage consultants responses to the queries raised at committee.

I would note that I in general agree with the additional submissions from the applicant's heritage consultant. Where there is a slight difference in the assessment it would not impact the overall conclusions.

The conservation area appraisal is 20 years old and the village has seen only limited change over that time. The boundary is drawn very tightly to the historic buildings

within the village, deliberately excluding more modern development. The tone of the appraisal is inward looking and deals almost exclusively with the buildings within the boundary area. There are few references to setting or views out of the conservation area. The comments regarding views tend to be long distance views of the surrounding landscape rather than more intimate views. The conservation area also concentrates on the historic structures located on the ridges along which the village originally expanded and this aspect of development is important to the character of the conservation area. In general the character appraisal does not give any reasonable assessment of the setting of the conservation area and there is very limited information on which an objection on grounds based on impact on setting could reasonably be made. The references that were picked up are not strictly impacts on setting but impacts on views (views to the distant landscape features to the south), or the reference interpretation has been broadened to include farms beyond the boundary which is not a clear intention within the appraisal which discusses farms within the boundary.

The assessment of what constitutes the setting of the conservation area needs to be made anew. Historically the setting of the conservation area was an agricultural landscape concentrated in the areas below the ridges. The expansion of the village in the 20th century has to a degree pushed that agricultural landscape away from the conservation areas boundary on almost every side. While this is limited towards the south it has none the less occurred. However, the overall sense to the south remains that of a rural landscape and the proposal will impact that perception.

The applicant's original assessment does acknowledge that there is an impact to the agricultural landscape from the loss of the rural landscape and this should be acknowledged as an impact on the setting of the conservation area which the applicant's heritage consultants have done. The impact on setting is not considered to be high and I agree with the consultant's identification of the level of harm. Given there is a level of less than substantial harm, there needs to be a judgement balancing that harm against public benefit. This is not a heritage matter but a planning matter and I am lead to understand the officers report covered these matters from a planning perspective.

2.11 Private Reps: 33 additional objections raising similar comments to those originally listed and raising the following additional points:-

- Do not consider that the East Malling Conservation Area Appraisal is superseded by the NPPF and therefore it is wrong to say that the development will not have an impact on the setting of the Conservation Area.
- High volume housing estate is at odds with the setting of the Conservation Area
- The badger mitigation measures are questioned as there are sett entrances within the orchard as well as the woodland.
- Question responses from Natural England.

- Relocated access would not reduce impact on the neighbouring property and would not retain the private right of access to maintain the boundary.

### **3. Determining Issues:**

- 3.1 The planning considerations are as set out in the original report. This report considers the Heritage matters raised at the previous meeting and also the amendments to the site access submitted by the applicant.
- 3.2 The development has been assessed against the East Malling Conservation Area Appraisal. This document was published in 2004 and the development has been assessed against it by the Conservation Officer.
- 3.3 The assessment by the Conservation Officer considers that whilst the document is approximately 20 years old there have been little changes within the Conservation Area itself as the boundary is very tightly drawn to the historic buildings within the village, deliberately excluding more modern development. The tone of the appraisal is inward looking and deals almost exclusively with the buildings within the boundary area. There are few references to setting or views out of the conservation area.
- 3.4 The comments regarding views tend to be long distance views of the surrounding landscape rather than more close-range views. The conservation area also concentrates on the historic structures located on the ridges along which the village originally expanded and this aspect of development is important to the character of the conservation area.
- 3.5 The development site is on the downward slope away from the conservation area boundary. In general, the character appraisal does not give any reasonable assessment of the wider setting of the conservation area. The consideration of the setting of the Conservation Area in the appraisal only includes reference to views to the south and not specifics regarding the setting.
- 3.6 The conservation area as a whole is surrounded by 20<sup>th</sup> century development that has deliberately been left out of the designation, and this 20<sup>th</sup> century development has separated the surrounding agricultural land from the setting of the conservation area in general on all sides.
- 3.7 Overall, when considering the content of the Conservation Area Appraisal and the impact of the proposed development on setting of the conservation area, the Conservation Officer does not consider the level of harm to be high and they agree with the applicant's consultant's identification of the level of harm. In conclusion, following the further assessment undertaken it is considered that the level of harm to the conservation area would be less than substantial, as set out in the original report and there is very limited information on which an objection on grounds based on impact on setting could not reasonably be made.

- 3.8 This conclusion mirrors the original assessment undertaken under Paragraph 11 of the NPPF 2023. The recently published NPPF 2024 does not change the requirements for the presumption in favour of sustainable development. With the NPPF tests regarding harm being met the presumption in favour of sustainable development set out at paragraph 11 (d) (ii) re-emerges and needs to be applied. The original assessment that was undertaken within the context of the tilted planning balance is therefore still valid.
- 3.9 The recently published NPPF 2024 does not bring in any fundamental changes to policy that relate to the specifics of this proposal. The standard methodology for calculating five-year housing land supply has though been changed. The recently published calculation which reduced the overall supply figure down to 3.97 years is likely to drop further due to the Governments change in calculation and consequent increase in housing numbers for the borough from 820 to 1096 per annum. The development of the 52 dwellings proposed would therefore go towards increasing the five year supply and meeting the increased housing required.
- 3.10 With regard to other matters, the applicant has considered the discussion at the previous meeting and moved the proposed access 4m to the south of its previous position. The alteration to the position of the access increases the separation to the boundary of the neighbouring property to 9.6m. This enables greater space to be provided for screening to the neighbouring property. The additional space would also ensure that the right of access can be retained. This is though a private matter that is not a planning consideration.
- 3.11 The garden extension at no. 51 Wateringbury Road has now been regularised through the approval of application 24/01631/PA. The presence of the garden has to be taken into consideration in the determination of the application. The movement of the access to the south away from the shared boundary has increased the amount of space available for landscaping within the site. It is acknowledged that the site is lower than Wateringbury Road at the point the access is proposed, however the presence of the existing boundary planting and the increased opportunity for landscaping arising from the revised access position would ensure that there would be no adverse impact as a result of overlooking from the new access into the neighbouring property. Similarly, the ability to provide landscaping along the northern boundary of the site would minimise the potential for a loss of privacy to the neighbouring property.
- 3.12 The revised position of the access is acceptable in both highways and landscaping terms. The alterations do not alter the ecological buffer zone proposed. Additional information has also been received regarding the presence of badgers on the site. The information supports the previous position that the development would not have an adverse impact on protected species.
- 3.13 In conclusion, as set out in the original report, 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.

- 3.14 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.
- 3.15 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.
- 3.16 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.

#### **4. Recommendation:**

4.1 **Approve Planning Permission** subject to:

4.2 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)

4.3 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:

Site Location Plan 21.094-01

Access Proposals 16082-H-01 rev p6

Improvement Works to Watringbury Road 16082-H-04 Rev P2

Improvement Works to Watringbury Road 16082-H-05 Rev P2

Proposed Parameter Plan 21.094-50 Rev B

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 IG3 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 P6 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 P6 '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 shall be submitted to the Local Planning Authority and approved in writing. The Plan shall 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.

33. As close as practicable and no earlier than three months prior to commencement of development, an additional badger survey report shall be submitted to and approved in writing by the Local Planning Authority. Should the position, in so far as it relates to badgers, have changed from that originally reported when the application was submitted, the new survey report should incorporate a revised badger mitigation plan.

Reason: To ensure appropriate mitigation

34. Prior to first occupation/use of the site, a report prepared by an appropriately qualified and experienced ecologist demonstrating the implementation of the badger mitigation/ enhancement measures, as set out in the badger survey report, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure appropriate mitigation



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