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## Appeal Decision

Inquiry Held on 1st - 10th December 2020

Site visit made on 8<sup>th</sup> March 2021

**by A Jordan BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 22 March 2021**

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### **Appeal Ref: APP/H2265/W/20/3256877**

### **Land West of Winterfield Lane, East Malling**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Wates Developments Ltd against Tonbridge & Malling Borough Council.
  - The application Ref: TM19/01814/OA, is dated 18<sup>th</sup> July 2019.
  - The development proposed is the erection of up to 250 new homes (40% affordable), new community building, provision of a new country park and other areas of public open spaces, areas of play, upgrade of existing footpaths, together with new vehicular accesses onto London Road and Winterfield Lane creating a new link road and associated parking and landscaping.
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### **Decision**

1. The appeal is allowed and planning permission is granted for the erection of up to 250 new homes (40% affordable), new community building, provision of a new country park and other areas of public open spaces, areas of play, upgrade of existing footpaths, together with new vehicular accesses onto London Road and Winterfield Lane creating a new link road and associated parking and landscaping at land west of Winterfield Lane, East Malling in accordance with application TM19/01814/OA and the plans submitted with it and subject to the conditions in the attached Schedule.

### **Procedural Matters**

2. The application is accompanied by a legal agreement dated 15 December 2020 which makes provision for affordable housing, off site highways works, including the transfer of safeguarded land, a contribution towards further off-site highways works, a public transport contribution and provision of a travel plan. The agreement also makes provision for contributions towards primary and secondary education including contributions towards land acquisition costs, a community learning contribution, a libraries contribution, a youth services contribution, a social services contribution, a healthcare contribution, an outdoor sport contribution and a contribution towards parks and gardens.
3. Following the submission of the appeal the Council initially indicated four putative reasons for refusal: the impact of the proposal on the spatial character of the area, the effect on the landscape character and appearance of the area, the effect of the loss of agricultural land and

whether the appeal proposal would prejudice the outcome of the plan making process. However, prior to the Inquiry the Council indicated that they did not wish to defend the matter of prematurity. Furthermore, the matter of agricultural land was not considered determinative in itself.

4. West Malling Parish Council and East Malling & Larkfield Parish Council as a Rule 6 party chose to pursue all four of the Council's putative reasons for refusal.
5. The Council does not dispute that a five-year supply of housing land cannot at present be demonstrated in the Borough. However, the main parties dispute the extent of the identified shortfall. The following main issues are therefore to be considered in the context of any shortfall, taking account of any identified harms and benefits.

### **Main Issues**

6. Accordingly, the main issues for the appeal are:
  - Whether the appeal proposal would cause harm to the spatial character of the area as a result of development taking place on land currently designated as countryside.
  - Whether the appeal proposal would have an unacceptable impact on the landscape character and appearance of the area.
  - Whether the appeal proposal would result in the unacceptable loss of the best and most versatile agricultural land.
  - Whether the appeal proposal would prejudice the outcome of the plan making process.

### **Reasons**

#### *Housing Land Supply*

7. The Council put forward the case that they have 4.3 years Housing Land Supply (HLS). The appellant considers that only 2.08 years can be demonstrated. The parties agree on the housing requirement of 888 dwellings per annum (dpa) derived from 846dpa with 5% buffer. Disagreement comes from the sites included in the supply. At the base date of 1<sup>st</sup> April 2019, the Council contended a 2.6 year supply of housing land with 2,297 dwellings within the supply. The Council's figure of 4.3 years is derived from including sites they consider have become deliverable since the base date. These include sites in the emerging Local Plan that do not fall within green belt, along with sites that had been granted consent since the base date.
8. The 2019 revision to the National Planning Policy Framework (the Framework) definition of deliverable retains reference to "a realistic prospect that housing will be delivered on the site within five years". The Court of Appeal judgment in *St Modwen* found that realistic prospect did not mean a site's deliverability must necessarily be certain or probable. The Council cite support for the inclusion of new sites from a recent decision for *Woburn Sands*<sup>1</sup> where the Inspector considered that information that

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<sup>1</sup> APP/Y0435/W/17/3169314

became available after the base date could be taken into account to determining whether or not a site was deliverable.

9. Whilst I see merit in using information that becomes available after the base date to inform deliverability, I note that the Inspector in Woburn Sands was referring solely to sites that were already identified in the housing supply at the base date, in line with the approach taken in Woolpit<sup>2</sup>. Indeed, he noted that to do otherwise would skew the housing supply. I share this view. An assessment of housing supply which introduces new sites would only be accurate if it also took account of lapsed sites, completions and other factors which might reduce sites at that point in time. The Council have not been in a position to supply all of this information and have not reviewed the phasing of extant permissions or indeed all of the permissions granted subsequent to the base date. I therefore have no confidence that the Council's approach would provide an accurate assessment of the actual state of supply in the district and I must therefore rely instead on the Council's previous position as of 1<sup>st</sup> April 2019 as a starting point.
10. The Housing Land Supply (HLS) as at the 1st of April 2019 was put forward by the Council as being 2.6 years. The Council have included 220 units within the HLS to account for windfalls at 44dpa. The appellant contends that windfalls within the first 3 years would already be accounted for within the housing supply, they should only be counted for years 4 and 5. Whilst I broadly agree with this contention I note that the Council only account for 50% of past rates within their windfall calculation. If the average past rate of windfalls<sup>3</sup> for the past 5 years were applied to only the last 2 years this would amount to around 176 dwellings. Forty-four (44) dwellings should therefore be removed from the supply. The Council have also since accepted that a further 53 dwellings should be removed to account for demolitions that were erroneously included in the supply.
11. The appellant has also raised doubts over the Council's assumption of delivery at Peters Pit. Part of the site is still awaiting a reserved matters application at the time of writing, having originally been anticipated for March 2020. I accept that the developer's plans for the site<sup>4</sup> are to complete it before they move on to another site at Bushey Wood and so I see no reason to doubt the developer's commitment to the site and so have some confidence that a further reserved matters application will come forward in the near future. As such there is a realistic prospect that the remaining part of the site will begin to come forward.
12. However, I find nothing in the evidence submitted which directs me to the conclusion that the site will be developed out at the rate put forward by the Council. The Council's submission to the Examination in Public puts the likely rate at around 160 dpa, based on 2 providers. This does not reflect past delivery rates on the site<sup>5</sup>, the highest rate previously achieved being 139 dwellings per annum with rates dropping significantly below that in the last available year of figures. In the absence of up to date evidence of actual delivery rates on site I am therefore persuaded that a rate of 122

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<sup>2</sup> APP/W3520/W/18/3194926

<sup>3</sup> CD5.19 para 3.22

<sup>4</sup> Appendix 2 CD4.7 and the oral evidence of Mr Bailey

<sup>5</sup> Para 9.7 of CD5.6 based on an extract from the SLAA

dpa<sup>6</sup>, as cited by the appellant is a more realistic estimate for future delivery at the present time. This would amount to 610 dwellings, a reduction of 230 from the Council's assumptions.

13. Removing the above reductions from the identified supply in the 2018/19 HLS Position Statement would leave the supply at around 1970 dwellings or around **2.2 years**.
14. The Council and the Appellant agree<sup>7</sup> that 25 units should be removed from the supply as they have expired. The evidence put to me<sup>8</sup> shows only a very small number of these permissions expired before the base date, with some expiring since April 2019. To remove sites that have expired since the base date without also adding in all permissions subsequently granted would give an inaccurate picture of housing supply. Furthermore, whilst it is proper that sites expired before the base date should be removed, as this would appear to impact on only a small number of dwellings within the supply, , it would not materially alter the above supply figure<sup>9</sup>.
15. To recognise that some consents may not be implemented, the appellant argues that a 10 % non-completion rate on minor developments should also be removed from the supply. Whilst it is clear that some permissions on small sites within the supply will not be built out, in terms of small sites I have no reason to conclude that this occurs at an unduly high rate within the Borough. I therefore see no reason to apply a non-completion rate in this case.
16. I am conscious that notwithstanding my conclusions below regarding the status of the emerging Local Plan, the Council have identified a number of recent approvals, which they contend indicates some prospect of an improvement in supply when the 2019/2020 Assessment is completed. However, the Council also relies heavily on other sites within the plan without providing any evidence of their likely delivery other than their proposed allocation. Most of these sites are without full approval, and many may be subject to unresolved objections. In the absence of any cogent evidence as to the delivery of these sites I see no basis for the Council's assumptions on when these will deliver homes, at least within 5 years. As such, on the basis of the information presented to me, I cannot be assured that the Council's figure of 4.3 years<sup>10</sup> will be achieved imminently, or that the current substantial shortfall is transient and likely to soon be remedied.
17. The National Planning Policy Framework (the Framework) directs in paragraph 11(d) that where a five year supply of housing land cannot be demonstrated, the presumption in favour of sustainable development requires the application of the "tilted balance"<sup>11</sup> in decision making. I return to this below.

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<sup>6</sup> CD5.6 para 9.10

<sup>7</sup> CD5.18 Housing Land Supply Statement of Common Ground

<sup>8</sup> CD 5.6 para 8.4

<sup>9</sup> Removing the 10 dwellings which are not clearly shown as expiring after the base date would alter the supply figure from around 2.21 years to 2.20

<sup>10</sup> CD3.1 para 6.2.12

<sup>11</sup> Any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework, taken as a whole.

### *Spatial Character*

18. East Malling, Larkfield and Leybourne now form a contiguous urban area, and parts of the Parishes of Leybourne and East Malling & Larkfield lie adjacent to the appeal site. The site lies outside the settlement boundaries identified on the Local Plan Proposals Map - the boundary for Leybourne is along the north side of the A20, and the boundary for East Malling is along the eastern side of Winterfield Lane. Each was originally a separate community but development over time has brought them together to form part of what is known as "The Medway Gap". West Malling is a separate settlement located on the other side of the A288. The A288 is bounded on both sides by open countryside, part of which is made up of the appeal site. The Council and Parish Council consider that the proposal would cause unacceptable coalescence, as the loss of greenfield land on the edge of the existing settlements would diminish the separation between West Malling and the adjoining built form of East Malling, Larkfield and Leybourne.
19. The parties are in broad agreement<sup>12</sup> that the existing narrowest gap between the built form of West Malling and the built-up area of East Malling, Larkfield and Leybourne would remain at around 430m and would not be reduced. The gap to the south west between Chapman Way and West Malling is around 1150m and this would be reduced to around 730m. In purely quantitative terms then, the settlements would still retain clear separation and whilst I note the site is within West Malling Parish and would therefore bring development in West Malling closer to East Malling, the difference in administrative areas would make no difference to the physical form of development on the ground.
20. The Council and appellant agree that an effective gap between settlements should provide a perception of leaving one place, travelling through an intermediate space and then arriving somewhere else. The extent and nature of that gap will influence the perception of separation. I have therefore considered whether the increase in built form would lead to a perception of reduced separation, which in turn would harm the spatial character of the area.
21. I noted on site that the agricultural appearance of the site provides a marked contrast to the suburban form of development on the opposite site of London Road. The settlement of West Malling cannot be clearly seen from within the site, although the road noise from both the A20 and the A288 gives the perception that built form and human activity isn't far away. The heavily engineered form of the A288 had a notably intrusive effect and formed a watershed between the west, which comprised the leafier environs on the outskirts approaching West Malling and the open fields to the east, across which views of the urban form of The Medway Gap were seen in panorama. The development would clearly encroach on the open fields but given the extent to which the A288 forms a physical and perceptual barrier, I am not convinced that the erosion of the rural setting of The Medway Gap to the east would reduce the degree to which West Malling is perceived as a separate entity to the west.
22. When travelling by car the short stretch of open fieldscape seen when travelling along the A20 would be lost. Similarly, it is likely that the

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<sup>12</sup> Paragraph 15 Landscape Statement of Common Ground.

development would be apparent in occasional views through vegetation from Winterfield Lane. The loss of these views would have a suburbanising effect which would alter the character of this part of the Medway gap. Nevertheless, the site lies alongside existing built form. Provided the scale, form and layout of the development was sensitively handled, and appropriate landscaping was integrated into the scheme in keeping with its edge of settlement location, in views towards the site from open countryside it would integrate into the existing urban area without harm to the established character of the wider settlement. In this regard, and taking into account the degree of physical separation that would remain with West Malling, the loss of open countryside would not result in a coalescence of built form or impinge upon the separate identity of West Malling and the Medway Gap.

23. The Development Plan for the area comprises the *Tonbridge & Malling Core Strategy 2007* (CS); *The Development Land Allocation DPD 2008* and *The Managing Development & Environment DPD 2010* (DPD). CP6 of the CS seeks to protect both the individual identity of settlements and to ensure that new development does not harm the setting or character of a settlement when viewed from the countryside or adjoining settlements. The proposal would not unduly alter the existing spatial character of the area and would not harm the character of The Medway Gap. Accordingly, I find no conflict with this policy.
24. Policy CP11 of the CS provides a list of the urban areas in the Borough, including Leybourne, East Malling and Larkfield, where development will be concentrated. The policy states that development adjoining these urban areas can be permitted where there is an identified need and no suitable sites are available within urban areas. In such cases priority is given to the use of previously developed land. It is common ground between the parties that the emerging plan puts forward sites within both open countryside and green belt in order to meet the need for housing within the plan period. I am therefore satisfied that at the present time there is an identified need for housing and that this cannot be met within the urban areas identified in the plan. Neither have I been presented with any compelling evidence that there are brownfield sites available to meet that need.
25. CP14 of the CS seeks to concentrate most development in and around urban settlements including extensions to existing settlements in accordance with policy CP11. I therefore find no conflict with policies CP14 or CP11 of the CS.

*The Impact of the Proposal on Landscape Character and the Appearance of the Site*

26. Policy CP24 of the CS seeks to achieve a high-quality environment by ensuring new development is well designed and amongst other things makes a positive contribution to the appearance of the area. Policy SQ1 of the DPD seeks to secure new development which protects, conserves and, where possible, enhances the character and local distinctiveness of the area.
27. The site and its surroundings do not lie within any national or local designations and views of the adjoining conservation area are very limited. The main parties agreed that the landscape and visual effects of the

proposals would be mainly focused upon the site and its immediate locality and would not result in significant landscape or visual effects on the Kent Downs Area of Outstanding Natural Beauty (AONB), although views of the AONB from the site would be affected<sup>13</sup>. The proposed development would also result in no significant landscape or visual effects for either Clare Park and Blacklands or West Malling Conservation Areas. A Zone of Theoretical Visibility diagram submitted with the proposal<sup>14</sup> also shows that the site is not prominently visible in the wider landscape. I see no reason to dispute these views.

28. Both the Council and the Appellant's assessment of the landscape and visual impacts of the proposal have had regard to the methodology set out in GLVIA3<sup>15</sup>. This sets out that the landscape and visual effects of development can be quantified by identifying the magnitude of change a development will bring about over time (or nature of the effect) in relation to the value and quality of the receiving landscape and its sensitivity to change. By quantifying these variables, which will require some value judgements, a picture of the likely landscape and visual effects of development can be arrived at. Landscape effects can be defined as the effects of the proposal on the landscape as a resource in itself, and visual effects are the effects of a development on views and visual amenity as experienced by people. I deal with these separately below.

#### Landscape Character

29. The site forms part of a broad wedge of undeveloped land to the south of the built envelope of Leybourne and Larkfield. East Malling lies to the east of this open area and West Malling lies on the other side of the A228, further to the west. Land to the east of the A228, including the appeal site is largely in agricultural use, with open fields separated by hedgerows. Land to the west is more enclosed, with more mature tree cover.
30. The appeal site is not within an area covered by a protected landscape designation and the main parties agree that the site is not a valued landscape in the sense of that defined in paragraph 170 of the Framework. The site lies on the northern edge of the Greensand Fruit Belt - Malling Landscape Character Area, as identified within the Kent Landscape Character Assessment. This covers a relatively wide area and at a local level the landscape character in and around the site varies significantly.
31. I noted during my site visit that the area north of the site made up of the urban edge and the area to the east, which includes the Clare Park and Blacklands Conservation Area was enclosed parkland. The site itself, and land to the south is made up of agricultural land which is more open in character. The rolling fields were punctuated with small groups of trees and intermittent field boundaries. Due to the proximity of the site to the urban edge in views to the north the fieldscape provided a stark contrast with the urban form of the adjoining settlement and moving traffic along the A20 and beyond. Views to the south, east and west were also punctuated with glimpses of built form.

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<sup>13</sup> Landscape Statement of Common Ground

<sup>14</sup> Zone of Theoretical Visibility Diagram drawing LE003 in CD1.2 p 73

<sup>15</sup> Guidelines for Landscape and Visual Impact Assessment 3<sup>rd</sup> Edition 2013 by the Institute of Environmental Management and Assessment and the Landscape Institute.

32. The area in and around the site is attractive due to the available views of an open rolling fieldscape interspaced with mature hedgerows and clusters of trees. However, its value in terms of landscape is not elevated by its rarity of the possession of any special features or associations. The Council's view that the landscape is of high value is primarily derived from the extent to which they attribute emphasis on the role of the landscape as a buffer between existing settlements. Furthermore, in terms of landscape quality, the Council's assessment downplays the extent to which detracting visual elements around the site, and noise from the A20 and the A228, particularly towards the north and west, intrude on rural character.
33. Some elements of the landscape have a high sensitivity to change. The contrast the open fields currently provide with the adjoining settlement is to my mind the key attribute which provides the site with much of its character and is highly valued by the local community and these will be lost. Some longer-range views of the AONB would also be lost as a result of the development. Nevertheless, the location of the site on the edge of the settlement and the extent to which this influences the character of land towards the north also leads me to the view that the Council's assessment of the sensitivity of the landscape to change is overstated.
34. In relation to the extent of change the proposal would bring about to the landscape, the introduction of housing onto the site would lead to a high level of change in immediate views. Having regard to the value and quality of the landscape and its sensitivity to change this would lead to significant landscape effects at a localised level. However, due to the proximity to existing housing and the lack of visibility of the site in longer range views, the level of perceived change at a wider landscape level would be relatively low. In this regard the proposal would have a limited effect on the character of the Greensand Fruit Belt - Malling Landscape Character Area.

### Visual Effects

35. Visual effects are normally taken to mean the effects of a proposal on those who would see the development, such as local residents in their homes, walkers, or those driving in the area. The scheme is submitted in outline form but is accompanied by indicative drawings<sup>16</sup> showing the likely extent of development on site. Supporting information also shows that the visual assessments undertaken by both the Council and the appellant assume development that is generally 2 to 2.5 storeys<sup>17</sup> in height. If the development were to be allowed, the main parties agree that a condition could be imposed requiring that the proposal be in general accordance with the extent of development shown on these plans. I have therefore used these plans as a guide to how development is likely to take place on site.
36. Footpaths MR119 and MR120 run through the length of the site from north-east to south-west and from east to west. For users of these footpaths the experience of using the route would change completely, from that of walking through rolling arable fields to that of walking through a suburban housing estate for a significant part of the route. This effect would not be diminished by the setting back of development from these pedestrian routes through the site. Even for the part of the route to the south where

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<sup>16</sup> CD1.5 Drawing LE20 and CD 1.6 6273-01G

<sup>17</sup> Design and Access Statement Section 4.8



the site is intended to be retained as undeveloped open space, it is likely that the current experience of being within an unmanaged natural environment would be lost. I noted on site that the footpaths were well used by casual walkers and by those accessing the nearby railway station on foot. The proposal would result in very significant adverse visual effects for these users.

37. Some of the properties along London Road which currently enjoy a clear and open view of the appeal site from within their dwellings would have their view replaced with views of the proposed development. These views would be framed by the traffic on the A20 in the foreground. Nevertheless, for a small number the existing rural outlook would be lost and taking into consideration that residents' homes would have a high sensitivity to such changes, this would result in a significant adverse visual impact for these users. For other properties, further to the west, due to the presence of existing vegetation, the development would be seen in indirect views and so the impact on these properties would be less severe, but nonetheless significant.
38. To the south the properties of Winterfield Barn and Winterfield Farm would view the development from an elevated position above the site and would lose the open fieldscape that currently separates these properties from those on London Road. Due to the extent of change in the view, and the residential nature of these properties, the development would lead to very significant adverse visual effects for these residents. Distant views would also be available from Broadwater Hall, although the intervening distance would lessen the impact of the visual change and result in only a moderate adverse visual effect. No. 41 London Road sits to the east of the appeal site but is separated by an open field which lies outside the development. The likely elevation of parts of the site would mean that parts of the development would be visible from the property, despite the intervening field and hedgerows. This would have a moderate adverse visual impact. To the east of Winterfield Lane some views of the site are likely to be available from the upper floor of some of the properties on Dickens Lane, although these would be partially screened by existing vegetation. As such, these residents would be likely to a slight adverse visual impact.
39. There would also be visual effects for road users in and around the site. Those passing the site along the A20 to the north would have clear views of the development at the eastern end of the site and potentially some filtered views through vegetation towards the western end of the site, particularly in winter. In these views the loss of the existing open and attractive farmland would be clearly apparent. Some views of the development would also be available to users of Winterfield Lane and Lucks Hill, although these would be filtered by the roadside hedgerows. Views from the A228 would be likely to be available only in winter, in glimpses through established roadside planting. Taken together, and taking into account the extent to which such views are likely to be transient, I consider the proposal would result in a moderate adverse visual effect for these users.
40. My attention has also been drawn to the effects of lighting from the proposal at night. The site does not lie in an area which is protected for its dark skies. I acknowledge that the extent of development would be apparent outside daylight hours due to lighting on site. However, this

effect would not be marked, due to the proximity of the development to existing light sources along the A20. Furthermore, whilst I note that many residents value the quieter quality of the landscape, and I acknowledge that this would be lost, the site could not accurately be described as tranquil, given the continuous presence of noise from the A20 and A228 which I noted during my site visit.

41. The visual impact of the proposal would lessen over time as the proposed landscaping became established. Nevertheless, due to the fact that the site rises towards the south a significant portion of the site would remain visible in most, if not all of the views identified above. Taken together, and considering the collective visual and landscape impacts of the scheme, I find that the impact on local landscape and the character of the area would therefore be limited in the long term but would nonetheless have significant short term localised impacts for residents and road users. The impact for footpath users would be very significant and this would not be materially diminished over time.

#### Conclusion on Landscape Character and the Appearance of the Site

42. Policy SQ1 of the DPD states that "proposals for development will be required to reflect the local distinctiveness, condition and sensitivity to change of the local character areas as defined in the Character Area Appraisals SPD". The Medway Gap Character Area Appraisal SPD includes an assessment of the area around the site, referred to as London Road Leybourne. Within this the appraisal notes<sup>18</sup> that the long panoramic views over the site create a spacious character and this is identified as a locally distinctive positive feature.
43. As I have identified above, the proposed development would lead to a loss of open countryside and the panoramic views that this provides, particularly when viewed from the north. This would diminish the spacious character of the area. These effects would be localised and would lessen over time as landscaping around the site became established. Nevertheless, the loss of open views would have a significantly harmful effect on the character of the area around the site. As a result, the proposal would be contrary to Policy SQ1 of the DPD. It would also conflict with guidance in the Framework which seeks to recognise the intrinsic character and beauty of the countryside.
44. The Council consider that the proposal is also contrary to Policy CP24 of the CS, which seeks to achieve a high-quality environment. At the Inquiry it was also put to me that as policy CP24 of the CS was a detailed design policy and the scheme was presented in outline form, it was not relevant to this proposal.
45. I accept that the terms of the policy relate to how development should take place on site, rather than matters of principle. Any built development would alter the appearance of a site and development of a greenfield site would bring with it some element of harm arising from the loss of countryside to built form. To apply CP24 in such a broad sense would therefore almost always lead to conflict in this regard and would not be in line with the broad intentions of the policy, which is to seek high quality

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<sup>18</sup> Page 20 Medway Gap Character Appraisal Supplementary Planning Document (SPD)

development, rather than to direct development to particular locations or to protect others.

46. Nevertheless, I do not accept that the policy is of no relevance in this case. The proposal is in outline form but specifies the number of dwellings to be provided within the site. I am therefore required to consider whether the extent of development proposed, in terms of the number of dwellings, would be able to be provided within the site confines whilst providing a high-quality environment.
47. The application is accompanied by 2 indicative plans<sup>19</sup>. These show 250 dwellings comfortably accommodated towards the north of the site, with large areas of open space to the south of the development providing a soft buffer between the built-up area and open countryside. Whilst I am mindful that the plans are indicative, they demonstrate that subject to appropriate details of appearance, layout and landscaping, a form of development could take place on site which would, over time, assimilate comfortably with the existing urban fabric and which would not be detrimental to the built environment.
48. Therefore notwithstanding the harm the loss of countryside would cause to the character of the area, which is explicit in the conflict with policy SQ1 of the DPD, the proposal would nonetheless be capable of providing a high quality environment, and would not conflict with policy CP24 of the CS.

#### *Agricultural Land*

49. The parties agree that the proposal would lead to the loss of at least 17.5 hectares<sup>20</sup> of Best and Most Versatile (BVM) agricultural land, the majority of which is classified as Grade II. Furthermore, the adjoining land to the north west comprises a field of around 2.9 hectares which is accessed via the appeal site. Even if appropriate access arrangements were made, the size of the adjoining land and the fact that it could no longer be farmed alongside the appeal site is likely to reduce its attractiveness as a prospect for agricultural use should the appeal site be developed. This field has not been surveyed, but is understood to also be grade II agricultural land. Taken together, this would lead to the loss of at least 20.4 hectares of the best and most versatile agricultural land.
50. Policy CP9 of the Core Strategy relates to the allocation of sites rather than decision making. The Framework directs that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality but again this relates to plan making not to decision taking. The appellant has not done a comparative assessment in this regard to indicate that no lower grade land is suitable and available, but the Framework does not require such a sequential test for planning applications and to my mind it would be unreasonable to require it.
51. Neither does the Framework define what "significant" development might comprise. In this case the amount of land in question would go beyond the threshold for consultation<sup>21</sup> and is predominantly Grade II land. The site

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<sup>19</sup> 6273-01 Rev G and indicative landscape layout referenced LE-20

<sup>20</sup> The site area of 18.2 hectares minus 0.7 hectares of land not suitable for agricultural production

<sup>21</sup> Schedule II of the General Development Procedure Order

and adjoining field are currently in cultivation and I have no reason to believe that it would not remain so if planning permission were not granted. Notwithstanding the absence of an objection from Natural England, having regard to the amount and quality of the land in question and the relative scarcity of such land as a national resource, I consider that the loss of land from agricultural production as a result of the proposal would be significant. The Framework recognises the economic and other benefits of maintaining a supply of such land. I therefore conclude that the loss of agricultural land which would arise in this case is an adverse impact which must weigh against the proposal in the planning balance.

### *Prematurity*

52. Paragraph 49 of the Framework is clear that an argument that an application is premature is unlikely to justify a refusal of planning permission other than where the emerging plan is considered to be at an advanced stage. The Council have chosen not to pursue prematurity as a ground of appeal, but the matter is one of concern for the Parish Council.
53. The emerging Local Plan designates the site as Green Belt. On the 15 December the Inspectors examining the Local Plan wrote to the Council advising them that they considered that the plan had failed the Duty to Cooperate. This was later confirmed in a further letter on the 2<sup>nd</sup> of March. It is therefore clear that the Council's assumptions in relation to when the Plan might be adopted, of late 2021, is no longer based in fact. Furthermore, it is unclear in what form, if any, the currently submitted plan will be taken forward.
54. I am therefore of the view that the plan cannot be considered to be at an advanced stage and I cannot be assured that proposals to designate the site and the land around the site as Green Belt, or any of the other aspects of the plan, will come forward in their current form. I also note that the Council, as the plan making body, make no argument that the proposal is premature.
- 55.** Accordingly, given the great deal of uncertainty as to how, if at all, the plan will progress, I cannot accept the Parish Council's view, advanced at the Inquiry, that the proposal would undermine the plan-making process by predetermining decisions about the location and scale of development. It follows that I find no conflict with the Framework in this regard and whilst I accept that the evidence base for the emerging plan is a relevant consideration, I give no weight to the policies in the emerging local plan.

### **Other Matters**

#### Heritage Assets

56. The effect of the proposal on heritage assets is a matter of concern for some. Clare House, a grade I listed building, is located around 200m south-east of the appeal site. It sits within the Clare Park and Blacklands Conservation Area.
57. S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. S72(1) of the Act requires special attention to

be had to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

58. Clare House is a grand Palladian residence set in extensive grounds. Its significance lies primarily in its architectural interest. It is a good surviving example of a building of this style executed at a domestic scale. A reduction over time in the size of the grounds, which would originally would have been extensive, and the enclosure of the site by extensive planting has reduced the extent to which the building is appreciated within an open planned setting. The property is now heavily enclosed, and the wider setting of the asset does not contribute to its significance.
59. The north western boundary of the Conservation Area extends to Winterfield Lane, which forms the south-eastern boundary of the site. The Conservation Area comprises the remains of the landscaped park originally constructed around Clare House. Its significance is derived from the historic association of the parkland with Clare House and in the architectural interest of the listed buildings within it. The extensive planting along both sides of Winterfield Lane largely obscures views of the site from the Conservation Area and so the wider setting of the Conservation Area does not make a marked contribution to the significance of the asset. As such, whilst there may be some limited perception of the development when within the Conservation Area, this would not detract from its significance.
60. The Church of St Mary the Virgin in West Malling lies around a kilometre from the site. It contains Norman remnants with 13<sup>th</sup>, 14<sup>th</sup>, 15<sup>th</sup>, and 18<sup>th</sup> Century additions. Its significance lies in its historic and architectural interest and in its value as a community building. Glimpsed views of the spire are available from parts of the site and the proposed development would be likely to obscure some of these views. However, having regard to the extent of the wider setting of the asset and the extent to which that setting already comprises substantial elements of built form the proposal would have no discernible impact of the significance of the asset.
61. I am therefore satisfied that the development would not harm the significance of nearby heritage assets and find no conflict with the Framework, which seeks to sustain and enhance such assets.

#### Other Matters

62. The effect of the proposal on local services, was also a concern for some residents. The application is accompanied by a legal agreement which includes provision for education, public transport, healthcare and a number of aspects of community provision and I am satisfied that these contributions would mitigate the effects of the additional population from the development on local services.
63. With regard to the effects of the proposal on air pollution, I am satisfied with the findings of the air quality assessment<sup>22</sup> which shows that the likely changes in traffic flows arising from the development are not anticipated to have a significant effect on local air quality, including within the Larkfield Air Quality Management Area (AQMA). Furthermore, subject to mitigation measures, which can be secured by condition, the proposal would not have

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<sup>22</sup> Wates Development Air Quality Assessment by ARUP 5<sup>th</sup> July 2019

a significant effect upon air quality as a result of activity during construction.

64. In relation to highway safety, I share the view of Kent County Council Highways that the proposed access arrangements, including the offsite works, are sufficient to ensure that site can be safely accessed without an adverse effect on the flow of traffic on the A20 or the wider highway network.
65. I also note that the development of the site provides the opportunity to provide a bridleway through the site. The application is made in outline form, and so how access through the site is achieved is not a matter before me. However, based on the information put to me I am satisfied that should the Local Authority consider it appropriate, such measures could be achieved on site as part of a detailed scheme.
66. I have considered the effects of the proposal on local wildlife. The application was accompanied by an ecological assessment<sup>23</sup> which found that the effects of the proposal on local wildlife were likely to be minimal. This is largely due to the fact that the parts of the site proposed for development are predominantly arable land. Those parts of the site of greater value, the woodland, hedgerows, and scattered trees are of greater value as a habitat and could be largely retained, subject to being included within an appropriate landscape scheme for the site. Therefore whilst I accept that the introduction of housing onto the site would be likely to have some effect on the value of these areas as a habitat, I am satisfied that on balance, and subject to mitigation measures outlined within the ecological report, the effects on local wildlife would not be significant.
67. A number of residents have questioned whether there is a need for a community facility within the development. Although I note that the community facility is also supported by some local residents and the local police, I also find no evidence that there is a deficit of such facilities in the local area. Nevertheless, this is not a matter which weighs against the proposal. Furthermore, I find no evidence to support the view that the development, and the open space within it, would lead to an increase in crime in the area, including anti-social behaviour.
68. I note comments from some local residents who dispute that the proposed affordable housing is genuinely affordable. The legal agreement which accompanies the application uses a definition of affordable housing, including affordable housing for rent which is in line with the definition of that in the National Planning Policy Framework. I am therefore satisfied that this would ensure that such housing is genuinely provided at rent levels significantly below the market rent for the area.

### **The Planning Balance**

69. The proposal would provide 250 homes. Furthermore, 100 of the 250 dwellings would be affordable housing units. Having regard to the impetus to increase the supply of housing of all types which is explicit in the Framework, and the identified need for such housing in the Borough, I

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<sup>23</sup> Land South of London Road Leybourne, Kent Ecological Impact Assessment July 2019

attribute the provision of housing, including affordable housing, very substantial weight.

70. The proposal includes enhancements to the public footpaths through the site and the provision of publicly accessible open space towards the west of the development. These aspects of the development represent an improvement for users in the wider local area and is a benefit to which I attribute moderate weight. The development also includes a community hall. I have no convincing evidence that there is a deficit of such provision in the local area and so I attribute this matter no weight as a benefit.
71. The proposal would bring some economic benefits through construction and through the additional spend generated by new residents, who would also help to sustain local services and I attribute these benefits moderate weight.
72. Highway improvements around the site are broadly necessary to offset the impacts of the scheme and so carry no weight in favour of the proposal. Similarly, the biodiversity improvements put to me are in effect mitigation measures to be set against the ecological impacts of the development and so carry no weight as a benefit.
73. Having regard to the quantity and quality of the agricultural land on and adjoining the site, I attribute moderate weight to the harm that would arise from its loss from agricultural production.
74. The impact on local landscape and the character of the area would be limited in the long term but would have significant short-term localised impacts and would be contrary to Policy SQ1 of the DPD. Notwithstanding the fact that the visual harm identified would lessen over time, taking into account the significant change that would occur, and the extent to which the site is used by local residents for informal recreation, I attribute significant weight to this harm.
75. Section 38(6) of the Planning & Compulsory Purchase Act 2004 states that applications should be determined in accordance with the provisions of the Development Plan unless other material considerations indicate otherwise.
76. The Framework indicates that where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites the policies in the development plan are to be considered out of date. In such cases planning permission should be approved without delay unless any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of the scheme.
77. The harm that would arise to landscape and the character of the area, taken together with the loss of agricultural land would not significantly and demonstrably outweigh the very substantial benefits the scheme would provide in relation to housing provision and other identified benefits.
78. The proposal would therefore amount to sustainable development when assessed against the Framework, taken as a whole. This is a material consideration which would outweigh the identified conflict with policy SQ1. Planning permission should therefore be granted.

### *Conditions*

79. The conditions set out in the accompanying schedule are based on those agreed by the Council and the appellant. Where necessary I have amended the wording of these in the interests of precision and clarity, in order to comply with advice in the Planning Practice Guidance.
80. For clarity I have imposed conditions to define the reserved matters, to identify the approved plans and to set the timescale for submission of reserved matters and implementation. I am satisfied that the reduced timescale for submission of reserved matters of eighteen months is necessary to ensure that the housing is delivered quickly to meet identified need.
81. The approval of details of external materials, landscaping and of levels on site are necessary to ensure the finished development has a satisfactory appearance and conditions in this regard is reasonable. A condition requiring details for waste storage and screening is also necessary to ensure such facilities are provided to an appropriate standard.
82. In order to meet the needs of future residents in relation to open space and play provision and in the interests of health and wellbeing, it is reasonable and necessary to require that appropriate provision is made for this within the proposed development along with a timetable for implementation. I am satisfied that the requirement, as set out within the condition, meets the provisions set out in the Council's adopted Policy OS3 of the Tonbridge and Malling Managing Development and the Environment Document 2010 (DPD) and is reasonable and necessary.
83. A number of conditions relating to highways matters have been imposed. These require details of parking and turning areas, provision of the access from the A20, details of roads and other highways infrastructure within the site and enhancements to the Public Rights of Way MR119 and MR120 along with details of linkages to the surrounding highways network. These details are necessary in the interests of highway and pedestrian safety to ensure appropriate access and circulation within the site. The requirement of vehicular charging points is necessary to secure measures to mitigate the impact of climate change.
84. A construction management plan is necessary to minimise disruption from construction, both in the interest of residential amenity and wider highway safety. Similarly, in the interests of protecting air quality during construction I have also imposed a condition requiring that the necessary mitigation measures outlined in the Air Quality Assessment are adhered to.
85. To ensure the site is appropriately serviced and drained, and to reduce the risk of off-site flooding I have imposed conditions relating to foul and surface water drainage. To protect human health, ground water and the wider environment it is also necessary to impose a condition requiring a site investigation for contamination, and if required all necessary remediation.
86. In the interests of protecting any archaeological interest that may exist on site, it is necessary to impose a condition requiring a field evaluation and if relevant the preservation of remains and further investigation if relevant.



In order to mitigate against any harm to ecological interests on site a condition is also necessary to require mitigation measure as outlined in the submitted ecological assessment.

### *The Legal Obligation*

87. The application is accompanied by a planning agreement made under Section 106 of the Town and Country Planning Act 1990 (as amended). The agreement makes provision for a number of matters which I deal with below in turn.
88. Having regard to the DPD and the submissions at the Inquiry<sup>24</sup> I am satisfied that the provisions of the undertaking in respect of affordable housing, education, healthcare, parks and gardens and sports provision are necessary to make the development acceptable in planning terms. The sum for highway improvements is in addition to the works required at the access and is necessary to mitigate the effects of the proposal on the wider highway network. Similarly, the public transport contribution and the travel plan also serve to mitigate the effects of the proposal on the wider higher network.
89. The evidence submitted shows that the youth services contribution, libraries contribution and community learning contribution are all required to meet a need directly arising from the development, and are all related to services that are reasonably close to the development and therefore able to serve future residents.
90. A social services contribution is also sought. In seeking the contribution reference is made to the provision of assistive technology systems, adapting community facilities, the provision of sensory facilities and the provision of accessible facilities and the contribution is calculated using an element for each of these measures. However, the agreement refers instead to the provision of extra care accommodation. Whilst I have no reason to consider that such accommodation is not needed in the borough, the evidence submitted does not relate to the provision of such accommodation. As such I cannot conclude that the sum involved is reasonably related to the measures proposed. Furthermore, the distance of 10 miles provides me with no surety that if such facilities were provided, they would be directly related to the development in question. I therefore do not consider that this element of the obligation is necessary.
91. I am satisfied that the obligations which I have set out above as being justified are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. However, as they simply fulfil policy expectations, they attract no positive weight in support of the scheme. In accord with the Community Infrastructure Regulations I have not taken account of the social services contribution part of the undertaking.

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<sup>24</sup> Inquiry Documents 23,24,25 and 37

**Conclusion**

92. Accordingly, having regard to all other matters raised, the appeal is allowed.

*Anne Jordan*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

1. Approval of details of the layout and appearance of the development, the landscaping of the site, and the scale of the development (hereinafter called the "reserved matters") shall be obtained from the Local Planning Authority.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of eighteen months from the date of this permission.
3. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of one year from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. Applications for the approval of the reserved matters shall broadly accord with the design principles shown in the indicative layout referenced 6273-01 Rev G and indicative landscape layout referenced LE-20 received 10 December 2019.
5. The details submitted in pursuance to Condition 1 shall be accompanied by a contoured site plan and full details of the slab levels and ridge levels at which the dwellings are to be constructed and development shall be carried out in accordance with the approved details.
6. The details submitted in pursuance of Condition 1 shall be accompanied by a scheme of landscaping and boundary treatment. The scheme shall broadly accord with the design and landscaping principles shown indicatively on Drawing LE20 received 10 December 2019 and follow the recommendations set out in the Arboricultural Implications Report received 1 August 2019. The scheme shall be approved in writing by the Local Planning Authority and shall be implemented by the approved date. Any trees or plants which within 10 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
7. The details submitted in pursuance of Condition 1 shall show land reserved for the parking and turning of vehicles. None of the dwellings hereby approved shall be occupied until these areas have been provided, surfaced, and drained in accordance with the approved details. Thereafter no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown (other than the erection of a private garage or garages) or in such a position as to preclude vehicular access to reserved vehicle parking areas.
8. The details submitted pursuant to condition 1 shall show details of vehicle charging points. The charging points shall be approved by the Local Planning Authority and be installed prior to the first occupation of any dwelling, and thereafter maintained and retained in accordance with the approved details.

9. The details submitted in pursuance of Condition 1 shall show the proposed enhancements to the Public Rights of Way MR119 and MR120 through the site and in broad conformity with the indicative layout referenced 6273-01 Rev G received 10 December 2019. None of the dwellings hereby approved shall be occupied until these routes have been provided, surfaced, and drained in accordance with the approved details and shall be retained and maintained at all times thereafter.
10. None of the dwellings hereby approved shall be occupied until the linkages of the Public Rights of Way MR119 and MR120 to the surrounding highway network have been substantially completed.
11. None of the dwellings hereby approved shall be occupied until the access from A20 London Road as shown in principle on drawing numbers ITL11317-GA-014 Rev D or ITL11317-GA-014- Rev H has been substantially completed.
12. The proposed road, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicles overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture to be laid out and constructed in accordance with details to be submitted to and approved by the Local Planning Authority.
13. No dwelling shall be occupied until details of a scheme for the storage and screening of refuse has been submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before the development is occupied and shall be retained at all times thereafter.
14. The details submitted in pursuance of Condition 1 shall show the proposed areas of amenity, natural and formal open space, Neighbourhood Equipped Area of Play, a centrally located Local Equipped Area of Play and Local Areas of Play, along with a timetable for their implementation. The details shall be approved by the Local Planning Authority and be installed in accordance with the approved plan(s)/scheme and maintained and retained at all times thereafter.
15. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of: 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. following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority.
16. The details submitted in pursuance to Condition 1 shall provide details and samples of all materials to be used externally. These details shall be submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

17. The details submitted in pursuance of Condition 1 shall incorporate the mitigation and enhancement measures detailed in chapter 5 of the Ecological Assessment received 1 August 2019. The measures shall be submitted to and approved by the Local Planning Authority, and implemented in accordance with an agreed timetable and retained thereafter.
18. The details submitted in pursuance of Condition 1 shall incorporate the mitigation measures detailed in the Air Quality Assessment received 1 August 2019. The measures shall be submitted to and approved by the Local Planning Authority, and implemented in accordance with an agreed timetable and retained thereafter.
19. No above ground works, other than ground investigations work or site survey works, shall commence until a scheme to connect all plots to mains foul drainage has been submitted to, and approved in writing by the local planning authority. The development hereby permitted shall not be occupied until the approved scheme to provide all plots with mains foul drainage has been implemented.
20. 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.
21. Following completion of the approved remediation strategy, 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.

22. Development shall not begin 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 the DRAINAGE ASSESSMENT, ref C85673-R400A and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of within the curtilage of 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.
23. 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 the suitable modelled operation of the drainage system where the system constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.
24. No development hereby permitted shall commence until a Construction Management Plan, to include details of:
- (a) parking for vehicles of site personnel, operatives and visitors;
  - (b) loading and unloading of plant and materials;
  - (c) storage of plant and materials;
  - (d) programme of works (including measures for traffic management);
  - (e) measures to prevent the deposit of materials on the highway;
  - (f) on-site turning for construction vehicles;
  - (g) measures to ensure protection of protected species and habitats during construction;
  - (h) access arrangements; and APP/H2265/W/20/3256877 Land West of Winterfield Lane East Malling ME19 5EY

(i) the days of the week and hours of the day when the demolition and construction works will be limited to and measures to ensure these are adhered to, has been submitted to and approved in writing by the Local Planning Authority. The construction of the development shall be implemented in accordance with the approved Construction Management Plan.

**End of Schedule**

## **APPEARANCES**

### FOR THE APPELLANT:

Sasha White QC of Landmark Chambers

He called:

Mr Alastair Field     Reading Agricultural Consultants

Mr Jeremy Smith     SLR Consulting Ltd

Mr Asher Ross       Jones Lang LaSalle

Mr Towell of for the Conditions Round Table

### FOR THE LOCAL PLANNING AUTHORITY:

Tom Cosgrove QC of Cornerstone Barristers

He called:

Mr Matthew Berryman     CLM Ltd

Mr Jon Etchells             Jon Etchells Consulting

Mr John Escott             Robinson Escott Planning LLP

Mr Ian Bailey of TMDC for the Housing Land Supply Round Table

Mr K Toogood for the Conditions Round Table

### FOR THE PARISH COUNCIL AS RULE 6:

Clare Parry of Counsel

She called:

Mr Kevin Goodwin         KG Creative Consultancy

### INTERESTED PERSONS

Mr Gibbons                 Local Resident

Mrs Simpson                Local Resident

Mr Markham                Local Resident

Mr Mansell                 Local Resident

Mrs Langston               Local Resident

Mr Johnson                 Local Resident

Rev Mark Hayton         Local Resident

Mr Archer                  Local Resident



Mr Dean	Local Resident
Mrs Woodger	Local Resident
Mr Brooks	Local Resident
Mr Walker	Local Resident
Mr Shire	Local Resident
Ms Dobson	Local Resident
Mr Arnold	Local Resident

## **DOCUMENTS RECEIVED AT THE INQUIRY**

1. Brampton Field Committee Report ref: TM/18/02966/OA
2. 2018 Annual Monitoring Report (issued to PINS earlier for the HLS round table – see attached)
3. ED19 – Bailey Letter
4. 2020 Visualisations for Mr Smith’s Submission
5. Appellant Opening Statement
6. LPA Opening Statement
7. Rule 6 Opening Statement
8. Mr Gibbon’s Submission
9. CIL Statement
10. Agreed Conditions
11. Section 106 Agreement
12. Mrs Simpson’s Submission
13. Late Submission from the British Horse Society
14. Statement from Mr Dean
15. KCC Consultation Letter Response dated 4<sup>th</sup> October 2019
16. KCC CIL Compliance Statement with Appendices
17. Email from KCC to Wates Developments Regarding Education Provision
18. Submission from Mr Field – Aerial view of land farmed in the vicinity of the appeal site.
19. KCC Economic Development Comments
20. KCC Highways and Transport Comments
21. Statement of Mr R Brooks
22. Natural England Consultation Letter and Response
23. Comments from Clinical Commissioning Group regarding CIL requirements
24. KCC Local Transport Plan 4

25. LDF Managing Development and the Environment DPD – Policy Annex OS3, Open Space Standards and Open Space Calculator
26. Agreed List of Plans, dated 3<sup>rd</sup> December - to accompany the Statement of Common Ground
27. Comments from Mrs Woodger
28. Schedule of Conditions V4 3<sup>rd</sup> Dec 2020
29. Further Comments of Mrs Liz Simpson
30. KCC Rights of Way Improvement Plan 2018-2028
31. Village Design Statement
32. Strategic Commissioning Statistical Bulletin – 2019 Mid-year Population Estimates: Ward Level Population in Kent
33. Woolpit Appeal Decision ref: APP/W3520/W/18/3194926
34. Email from Rev Hayton to the Inspectorate Received: 09 December 2020 12:10
35. MHCLG Affordable Housing Figures
36. Update agreed Conditions V6
37. Winterfield Lane, East Malling - Appeal ref: 3256877 TM/19/01814  
KCC Contributions – Additional Information
38. Email for Tonbridge and Malling Inspector dated 9 December 2020 13:10  
Regarding Population Estimates for the Borough.
39. Closing Statement for the Council
40. Closing Statement for the Parish Council as R6
41. Closing Statement for the Appellant
42. Inspectors' Letter to the Council dated 15 December 2020
43. Council's Comments on the Inspectors' Letter in Relation to the Appeal
44. Parish Councils' Comments on the Inspectors' Letter
45. Appellant's Comments on the Inspectors' Letter