

# Maidstone Borough Local Plan Examination

Session 13B Tuesday 29<sup>th</sup> November 2016  
14:00 – 17:00 regarding 'Alternative Sites'

## **Representation R19111: Loder Close, Lenham**

By

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Replies to questions set by the Local Plan Inspector are as follows:

Issue (i) – whether the alternative site would be suitable, sustainable and deliverable.

**Q 13.20 Does the site have any relevant planning history?**

The site has no relevant recent planning history other than planning application MA/15/507941 which was the company's application for 45 units. This was refused on 31<sup>st</sup> March 2016; an appeal was lodged with PINS on 6<sup>th</sup> September 2016 and validated with the reference APP/U2235/W/16/3158043.

The grounds of refusal are set out in the delegated officer's report at **Appendix 1** and at **Appendix 2** is a copy of the statement of case submitted with the appeal. (A revised planning application for 43 dwellings in number is in the course of being submitted and the Council are aware of this position).

It should be noted that the land adjoining the site on its northern boundary, has been subject to a recent residential appeal (82 dwellings) under APP/U2235/W/15/3131945 and this has been granted by the Inspectorate. A copy of the decision of 24<sup>th</sup> June 2016 is attached at **Appendix 3**.

**Q 13.21 What's the site's policy status in the submitted Local Plan?**

The site is not allocated for housing in the emerging Maidstone Local Plan. It is open countryside shown as 'white land' with no protectionist policies applicable to it. As a settlement the Plan sets out Lenham as a Rural Service Centre with substantial housing growth (1,500 dwellings) as a key element of the Plan.

**Q 13.22 What is the site's policy status in any made or emerging Neighbourhood Plan?**

The Lenham Parish council are in the process of preparing a Neighbourhood Plan. This has yet to reach the examination stage.

**Q 13.23 Is the site greenfield or previously developed (brownfield) land according to the definition in the glossary of the National Planning Policy Framework?**

Greenfield Land. This land is used by horses and is not farmed. It is not part of an agricultural holding and is grade 3b land.

**Q 13.24 What previous consideration by the Council has been given to the site's development (e.g. inclusion in a Strategic Housing and Economic Land Availability Assessment (SHEDDLAA) and does the Representor have any comments on its conclusions?**

The Council has rejected the site in its 'call for sites' exercise under HO3-195 (**Appendix 4**).

This site is a sustainable location in a defined Rural Service Centre and it is most surprising that MBC should reject our application on this site. Good public transport facilities are very close by.

**Q 13.25** What is the site area and has a plan been submitted which identifies the site?

The site, excluding the roadway in Loder Close is 1.82 ha (4.5 acres). Upon this area we have housing and open space provision.

**Q 13.26** What type, and amount of development could be expected and at what density?

The planning application at appeal has been amended to show 44 dwellings of which 40% are affordable houses.

The revised layout (drawing WH/LL/003 Rev A) submitted for appeal is shown at **Appendix 5** and shows the following housing mix.

Private (27)

2 bed x 6

3 bed x 15

4 bed x 6

Affordable (17)

1 bed x 6

2 bed x 7

3 bed x 3

4 bed x 1

A density of approximately 25 dwellings per ha / 10 dwellings per acre (main site only, entrance road excluded)

**Q 13.27** When could development be delivered and at what rate?

The land is readily available for completion within the next 2-5 years. The site would be built out within 18 months to 2 years.

**Q 13.28** What evidence is there of the viability of the proposed development?

The land is not subject to any abnormal constraints / costs, and the scheme can return a standard commercial return to the company.

**Q 13.30** Has the site been subject of sustainability appraisal and does the Representor have any comments on its conclusions?

The site is a sustainable one. It is on the edge of Lenham village on a bus route and within a 5 minute walk to Lenham railway station. It is understood that the Council endorse its sustainable credentials as a suitable residential site in the light of the approved appeal on the land to the north which is further away from facilities in comparison to the subject site.

**Q 13.31** What constraints are there on the site's development and how could any adverse impact be investigated?

The site is readily available subject to planning clearance. There are no known constraints that would restrict this site coming forward.

# **APPENDIX 1**

Overall, whilst the lack of a five year supply of housing is a material consideration it is considered that the impact on the landscape, neighbouring amenity, ecology and surface water drainage are material considerations of greater weight to the extent that permission should be refused

**RECOMMENDATION** – Application Refused subject to the following reasons for refusal:

#### REASONS

- 1) The development of this prominent greenfield site which lies outside the built up extent of Lenham would result in harm to the character, appearance and landscape of the surrounding area which is visible from a strategic transportation routes and is located in the setting of the Kent Downs Area of Outstanding Natural Beauty, from which distant and local views of the site are available, contrary to policies ENV21, ENV28 and ENV33 of the Maidstone Borough-Wide Local Plan (2000) and paragraph 109 of the National Planning Policy Framework.
- 2) The dwelling proposed at plot 45, by reason of its siting, height and design, would appear as a visually intrusive and oppressive structure which would be damaging to the residential amenities of the adjacent property located in Westwood Close to the east of site. This is therefore contrary to the Maidstone Borough Wide Local Plan 2000 and NPPF.
- 3) By reason of the lack of information submitted, it is not possible to fully assess the impact that the proposal would have with regard to surface water drainage within the application site and surrounding area. The application thereby fails to comply with central government planning policy as set out in section 10 of the National Planning Policy Framework 2012 and the National Planning Practice Guidance.
- 4) By reason of the lack of information submitted, it is not possible to fully assess the impact that the proposal would have on the ecology/biodiversity within the application site and surrounding area. The application thereby fails to comply with central government planning policy as set out in section 11 of the National Planning Policy Framework 2012 and Circular 06/2005.
- 5) In the absence of an appropriate legal mechanism to secure 40% affordable housing and necessary contributions towards primary education and local libraries within the local area, the impact of the development would be detrimental to existing social infrastructure and therefore contrary to policy CF1 of the Maidstone Borough-Wide Local Plan (2000), Affordable Housing DPD (2006) and central government planning policy as set out in the National Planning Policy Framework 2012.

#### INFORMATIVES

{\bNote to applicant: REFUSAL}

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:


Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.  
As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was considered to be fundamentally contrary to the provisions of the Development Plan and the NPPF, and these were not considered to be any solutions to resolve this conflict.

Case Officer Andrew Jolly

Case Officer Sign:		Date: 31.3.16
Delegated Authority Sign:	M.H	Date: 31.3.16
TL/DM Countersign if refused:		Date:

## APPENDIX 2

**APPEAL STATEMENT**

**ON**

**LAND NORTH WEST TO LODER CLOSE, LENHAM, KENT**

**FOR**

**WEALDEN LTD**

**BY**

**PETER COURT  
PETER COURT ASSOCIATES  
CLEVELAND  
CHART ROAD  
CHART SUTTON  
KENT  
ME17 3RB**

**SEPTEMBER 2016**





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## Statement of Case.

### 1. Introduction

- 1.1 This Statement of Case is submitted on behalf of Wealden Ltd in respect of the decision by Maidstone Borough Council to refuse its planning application (reference 15/507941/FULL) for residential development of 45 two, three and four bedroom traditional two storey houses, inclusive of 40% affordable housing, together with the provision of public open space, with vehicular access via Loder Close, off Ham Lane, Lenham.
- 1.2 The reasons for refusal were, in summary, that the site lay outside the built up area; the dwelling on plot 45 was visually intrusive; there was a lack of information on surface water drainage and ecology and no legal mechanism to secure community benefits. The Decision Notice is attached as **Appendix 1**, while the Case Officer's Report is attached as **Appendix 2**.
- 1.3 The Company considers that the Council's reasons for refusal are unjustified, or can be addressed and has therefore decided to appeal.

### 2.0 Description of the site

- 2.1 The appeal site comprises a parcel of horsiculture land of 1.85 ha. on the western edge of the village of Lenham. To the east of the site are two cul-de-sac developments known as Loder Close and Westwood Close, both of which are accessed from Ham Lane. To the south of the site is the village playing field which contains football pitches with parking and changing facilities. To the west and north of the site are given over to agriculture and open countryside. However, the adjacent field has recently been granted planning permission on appeal by Jones Homes for 82 dwellings. Further north, beyond the A20, the land is designated part of a more extensive Area of Outstanding Natural Beauty.
- 2.2 The site itself is a single field used by horses and is rented out. There are no trees or significant vegetation other than on the site boundaries. The northern

boundary has some sporadic tree/hedge planting and there is limited vegetation on the western boundary. The southern boundary is lined by fairly substantial vegetation that separates the site from the adjacent sports pitches. The eastern boundary consists mainly of residential post and wire/close boarded fencing/landscaping of the residential properties.

### **3.0 The current planning policy framework**

3.1 The Maidstone Borough-wide Local Plan was adopted in December 2000 and covered the period to 31<sup>st</sup> March 2006. Nevertheless, a number of policies are “saved” and still used for development control purposes. However, in saving those policies, the Secretary of State made it clear that this did not indicate that she would endorse those policies if presented to her as new policies. Instead, the saving of policies was intended to ensure continuity in the plan-led system and a stable framework locally and, in particular, a continual supply of land for development. The Secretary of State’s letter is attached as **Appendix 3**.

3.2 A new local plan, the Maidstone Borough Local Plan, covering the period 2011-2031 is now being produced. A Regulation 18 draft version was published in March 2014, with a partial and additional Regulation 18 document published in November 2015. The Regulation 19 version of the local plan was then published in February 2016. The Council has now submitted its local plan to the Planning Inspectorate for Public Examination. This is now programmed to begin in early October and continue until the end of November.

3.3 The Adopted Local Plan Proposals Map shows the site lying very close to the defined edge of the settlement. It is “white land” not subject to any restrictive landscape or strategic policies.

3.4 The submitted local plan seeks to focus development on the north western and south eastern peripheries of Maidstone itself. It also identifies five “Rural Service Centres” (RSC) as the next most sustainable settlements in Maidstone’s settlement hierarchy and which are therefore capable of growth. These all have a good range of services and facilities and serve a wider

community. Lenham is one of this group of five, together with Harrietsham, Headcorn, Marden and Staplehurst. Lenham, moreover, is the only RSC that has a secondary school. That school, Swadelands School, is located in Ham Lane and is a short walk away from the appeal site.

3.5 The submitted local plan allocates two sites for residential development at Lenham: Tanyard Farm, for 155 dwellings and Glebe Gardens, for 10 dwellings. Tanyard Farm is shown in the adopted local plan as being within a Special Landscape Area and subject to Policy ENV34, wherein protection of the landscape is given particular protection. Glebe Gardens, like the appeal site, is not, however, subject to any such policy of restraint and has recently been granted planning permission for eight dwellings under MA/14/0174.

3.6 In addition to these sites, the submitted local plan also identifies Lenham as a broad location for housing growth. It proposes the provision of 1500 dwellings later in the plan period, although no sites have been specified for this purpose. Nevertheless, the plan does identify land west and east of the village for this. A further document: "Exploration of the Broad Location Allocation at Lenham Village, Kent" has been prepared for the Borough Council by Thomas Design Regeneration & Consultation Ltd, which was published on 12<sup>th</sup> May 2016. That document goes into further detail concerning the development of land east and west of Lenham. In particular, it shows how the appeal site could be part of a more extensive development of land accessed off Old Ham Lane.

#### **4.0 The National Planning Policy Framework**

4.1 The National Planning Policy Framework has at its heart the presumption in favour of sustainable development. This means, inter alia, that local authorities have to positively seek opportunities to meet their objectively assessed full market and affordable housing needs, together with a 5% buffer. In particular, they are required to significantly boost the supply of housing and identify and update a supply of deliverable sites to provide five years' worth of housing.

4.2 The Framework also makes it clear that if a local authority does not have a five year supply of housing land, then relevant policies in the plan relating to the supply of housing (such as ENV28) should not be considered up to date (Paragraph 49). Moreover, in these circumstances, there is a presumption in favour of sustainable development. It therefore states, in paragraph 14, that planning applications should therefore be granted unless any adverse impacts would so significantly and demonstrably outweigh the benefits

#### **5.0 Housing land requirements and supply**

5.1 The Case Officer's Report acknowledges that (at that time) the Council did not have a five year supply of housing land. Indeed, this was not a recent situation but instead a position that had existed since the latter part of 2012. However, the Borough Council has recently produced its Housing Topic Paper 2016 in which it has calculated that it now has, at best, a 5.12 years' supply.

5.2 This latest assessment by the Council has been considered in detail by my Company, which specialises in local land availability issues. The findings of the assessment are that the Council is unjustified in arguing that it now has a five year supply. It is contended that the Council's assessment is flawed for the following reasons. First, it has it has incorrectly calculated its requirement due to its contention that, despite having failed to meet its annual requirement for the past five years, that does not equate to persistent under-provision as described in paragraph 47 of the Framework. It has therefore only added a 5% buffer, whereas a 20% buffer should have really been applied. Secondly, it has consistently over-estimated the capacity of sites and ignored the lack of viability and availability of others. In addition to this, the Council's objectively assessed housing needs for the period of the local plan have yet to be formally assessed and, moreover, it has deliberately ignored recent appeal Inspectors decisions on this very issue. In these circumstances it is contended that the Council does not have a five year supply of land for housing.

5.3 The detailed assessment of housing land supply is attached as **Appendix 4**.

## **6.0 Critique of the Council's refusal of the application**

6.1 The Council has given five reasons for refusing this application. However, since that decision was taken, the Appellants have been in discussion with the Council as to whether any of those reasons can be set aside. The response to, or situation regarding each of those reasons, is set out below.

### **6.2 The first reason for refusal (i) Policy ENV28**

6.2.1 The Council refused permission on what it described as a prominent greenfield site, outside the built up extent of Lenham on the grounds that it would result in harm to the character, appearance and landscape of the surrounding area, which was located adjacent to the Kent Downs AONB. In these circumstances, the Council stated that it would be contrary to policies ENV28 and ENV33 of the Adopted Local Plan and paragraph 109 of the Framework.

6.2.2 It must first be argued that the Council has been inconsistent in its approach to applications for residential development on the edge of built up areas and Rural Service Centres, in particular in respect of its use of Policy ENV28.

6.2.3 This policy is contained within the Borough-wide local plan that was adopted in December 2000. That plan, inter alia, identified land to meet the Council's housing requirements for the period 1996-2006. It is therefore out of date, dealing with housing requirements for a period which expired over ten years ago.

6.2.4 The policy itself defines "the countryside" as all land outside the defined development boundaries of towns and villages. The aim of the policy is to resist development outside these boundaries, with certain exceptions. The policy is attached as **Appendix 5**.

6.2.5 The policy, together with others, was "saved" in 2007, following the expiry of the local plan. However, and as has been explained above, this does not mean that the Secretary of State would endorse that and other saved policies if they were presented as new policies. Moreover, her letter places particular

emphasis on the need to avoid such policies if they would inhibit housing land supply. Unfortunately, the Council has ignored this.

- 6.2.6 Policy ENV28, which is a “blanket” policy, is being used in this instance to resist development. This is despite the absence of both an up-to-date local plan and (at the time the Council refused the application-as well as now) a five year housing land supply. In these circumstances paragraphs 14 and 49 of the Framework apply. It is therefore submitted that the Council has failed to consider whether policy ENV28 is up to date and therefore whether it can be accorded due weight.
- 6.2.7 In ignoring the fact that policy ENV28 was out-of-date, both in its own terms and by the substantial housing land supply shortfall, the Council has acted unreasonably. Its approach has been contrary to the unequivocal wording of the Framework in that it disregarded the very serious housing land supply shortfall, failed to address the weight that can be attached to ENV28 and applied a presumption against development outside a development boundary that had been set in a grossly out-of-date local plan.
- 6.2.8 In his report, the Case Officer did acknowledge that the lack of supply was a significant factor and that paragraph 49 of the Framework stated that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant policies for the supply of housing (such as ENV28) should not be considered up -to-date if a five year supply cannot be demonstrated. He then went on to consider the sustainability of the site and concluded that it was sustainable as it was on the edge of a village, within walking distance to an array of services and facilities.
- 6.2.9 In the final paragraph on page 8 of his report he concludes that the key planning issues were the visual impact (including whether the site could suitably accommodate the development), residential amenity, access/highway safety, ecology and flood risk. Yet, in spite of this positive assessment, the application was still refused on conflict with ENV28.

6.2.10 This stance is in sharp contrast to the approach adopted by the Council towards other residential applications. In the case of the application to re-develop Marden Hockey Club, (reference 13/1928) the Council's report (dated 16<sup>th</sup> October 2014) stated that in the absence of a five year supply, relevant policies for the supply of housing such as ENV28 should not be considered up to date. It then added that this position had been reflected in recent appeal decisions issued since the publication of the Framework. Moreover, it then adds that in the absence of a five year supply, the focus should be on existing service centres and on land within or adjoining existing settlements, (see paras 7.07 and 7.12 of the report, attached as **Appendix 6.**)

6.2.11 A further example of the rejection of policy ENV28 is provided by the officer's report of 27<sup>th</sup> November 2014 on an application for development of land south west of Oakapple Lane, Maidstone, (application reference 13/2079.). There, in paragraph 18.1 it is stated that, whilst the proposed development was contrary to policy ENV28, in the absence of a five year supply of housing land, policies such as ENV28 cannot form grounds to object in principle. The extract from that report is attached as **Appendix 7.**

6.3 The first reason for refusal (ii) Policy ENV33

6.3.1 It is inappropriate for the Council to use this policy, which seeks to protect the Kent Downs AONB, since the appeal site is not within that. Indeed, the fact of the matter is that the Council has proposed the allocation of Tanyard Farm, Lenham, for residential development. This site lies immediately south of the A.20, while to the north the land is designated AONB. It is therefore inappropriate to argue that the development of the appeal site, which is some way south of the A.20, should be refused permission because of its impact on the AONB. Moreover, the land between the appeal site and the A.20 was initially allocated for housing and was the subject of the recent successful appeal by Jones Homes.

6.4 The first reason for refusal (iii) paragraph 109 of the Framework.

6.4.1 This paragraph states that the planning system should protect and enhance valued landscapes. However, the adopted local plan does not designate the



appeal site with any form of policy protection. It is part of a belt of land on the western side of the village that is formally designated “white land”. That plan does have a number of landscape protection policies such as those covering Areas of Outstanding Natural Beauty (ENV33); Special Landscape Areas (ENV34) and Areas of Local Landscape Importance (ENV35). In addition to these, it seeks to prevent or minimise development in Strategic Gaps (ENV31) or in the Southern Anti-coalescence Belt (ENV32). None of these, however, apply to the appeal site. It is therefore inappropriate for the Council to claim that the development of the appeal site would be in conflict with paragraph 109 of the Framework.

6.4.2 In support of this contention it is appropriate to refer to a recent appeal decision on land also on the edge of Lenham, that was also not subject to any landscape policy constraint. In her decision letter *The Old Goods Yard* (reference APP/U2235/W/15/3008336) the Inspector stated that “The site does not lie within any designated landscape, and thus is not valued in the context of paragraph 109 of the National Planning Policy Framework, which seeks to protect and enhance valued landscapes, or paragraph 115, which requires the decision maker to give great weight to conserving the landscape and scenic beauty of designated landscapes.” The relevant extract from that appeal is attached as **Appendix 8**.

## 6.5 RfR 2 Design of plot 45

6.5.1 In order to overcome this single detailed design objection, Wealden Homes have now re-designed this corner site as shown on revised layout WH/LC-003A.

6.5.2 As can be seen from that plan, Plot 45 has been deleted and a terrace block 41-43 now becomes a block 41-44, with a new plot 44 being a two bed end of terrace unit. This new terraced block is slightly re-positioned to make allowance for a wider footway between it and plot 40. This can therefore become a pedestrian link into the adjacent development.

6.5.3 The flank wall of plot 44 is approximately 15m away from the corner plot in Westwood Close. This is in excess of the normal 11m distance which is used locally as standard.

6.5.4 A drawing issue sheet dated 4<sup>th</sup> September 2016 shows an amended list of drawings including the minor consequential changes in light of the above.

## 6.6 RfR 3 Surface Water Drainage

6.6.1 This issue was identified by the County Council as drainage authority during the consultation period. It requested more data and, as a consequence, further pits were dug and soakage tests undertaken. However, and most annoyingly from the point of view of Wealden Homes, the Borough Council decided to refuse the application whilst this process was ongoing, rather than awaiting its conclusion.

6.6.2 Notwithstanding the above, the Company has provided the County and Borough Councils with additional ground information dated 17<sup>th</sup> June. The County Council's Flood Risk Project Officer stated in his reply of 20<sup>th</sup> June to the Case officer, Andrew Jolly, that: "I note this application was refused on several grounds so I won't respond to this as a formal consultation, however I believe should a new planning application be pursued **that the provision of surface water details could now be conditioned for detailed design**" (my emphasis).

6.6.3 He then added that "The design is likely to require some additional investigation (in particular for ground water levels) and the detailing of the design reflecting the depth of superficial soils across the site. **However the most recent soakage tests are demonstrating that a workable solution can be found.**" (my emphasis)

6.6.4 Given the additional information provided to the County and Borough Councils, it is anticipated that, having spoken to the Case officer, this reason for refusal will be withdrawn.

6.7 RfR 4 Lack of info on ecology/biodiversity

6.7.1 Wealden Homes have met with the Case officer and this reason for refusal is to be withdrawn.

6.8 RfR 5 No s106

6.8.1 Wealden Homes is in the course of preparing a Unilateral Undertaking to secure the provision of 40% affordable housing as requested by the Council. It has instructed its solicitor accordingly and this document will shortly be provided. The adjacent housing is a local needs scheme owned and managed by The Rural Housing Trust Ltd and this Registered Social Landlord will take on board the affordable housing on the site.

**7.0 Conclusion**

7.1 This Statement shows that the Council does not have a five year land supply and that the policies quoted in the first reason for refusal are unjustified. The other reasons for refusal have also been addressed and therefore the Inspector is requested to uphold this appeal.

## Appendices

1. Maidstone Borough Council Decision Notice 15/507941/FULL
2. Case Officer's report on 15/507941/FULL.
3. Secretary of State's letter to Maidstone Borough Council, 24 September 2007.
4. Detailed assessment of housing land supply.
5. Policy ENV28.
6. Extract from committee report on 13/1928 – Marden Hockey Club.
7. Extract from committee report on land at Oakapple Lane - 13/2079.
8. Extract from Appeal on The Old Goods Yard, Lenham, APP/U2235/W/15/3008336.

**APPENDICES TO APPEAL STATEMENT**

**ON**

**LAND NORTH WEST TO LODER CLOSE, LENHAM, KENT**

**FOR**

**WEALDEN LTD**

**BY**

**PETER COURT  
PETER COURT ASSOCIATES  
CLEVELAND  
CHART ROAD  
CHART SUTTON  
KENT  
ME17 3RB**

**SEPTEMBER 2016**

## Appendices

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Wealden Ltd  
C/O Wealden Homes  
FAO: Mr Graham Norton  
Wealden Court  
Church Street  
Teston  
Maidstone  
Kent  
ME18 5AG

31 March 2016

## PLANNING DECISION NOTICE

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<b>APPLICANT:</b>	Wealden Ltd
<b>DEVELOPMENT TYPE:</b>	Large Maj Dwellings
<b>APPLICATION REFERENCE:</b>	15/507941/FULL
<b>PROPOSAL:</b>	<p>Residential development of 45 two, three and four bedroom traditional two storey houses inclusive of 40% affordable housing including provision of open space, with vehicular access via Loder Close off Ham Lane as shown on drawing numbers J50.80/01, WH-L-C-001 REV A, WH-LC-002, WH-LC-003, WH-LC-004, WH-LC-005, WH-LC-006, WH-LC-007, WH-LC-P1-3-01, WH-LC-P1-3-02 Rev A, WH-LC-P10-12-01, WH-LC-P10-12-02, WH-LC-P10-12-03, WH-LC-P13-14-01, WH-LC-P13-14-02, WH-LC-P15-16-01, WH-LC-P15-16-02 Rev A, WH-LC-P17-01, WH-LC-P17-02, WH-LC-P18-20-01, WH-LC-P18-20-02, WH-LC-P21-22-01, WH-LC-P21-22-02 Rev A, WH-LC-P23-24-01, WH-LC-P23-24-02, WH-LC-P25-26-01, WH-LC-P25-26-02 Rev A, WH-LC-P27-28-32-01 Rev A, WH-LC-P27-28-32-02 Rev A, WH-LC-P29-31-01, WH-LC-P29-31-02, WH-LC-P29-31-03 Rev A, WH-LC-P33-01 Rev A, WH-LC-P33-02 Rev A, WH-LC-P34-01 Rev A, WH-LC-P34-02 Rev A, WH-LC-P35-01 Rev A, WH-LC-P35-02 Rev A, WH-LC-P36-37-01, WH-LC-P36-37-02, WH-LC-P38-40-01, WH-LC-P38-40-02, WH-LC-P38-40-03, WH-LC-P4-9-01, WH-LC-P4-9-02, WH-LC-P4-9-03 Rev A, WH-LC-P41-43-01, WH-LC-P41-43-02 Rev A, WH-LC-P44-45-01, WH-LC-P44-45-02; received on</p>

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**MKPS – Working in Partnership with:** Maidstone Borough Council  
**Please Note:** All planning related correspondence for MBC should be sent to:  
Mid Kent Planning Support, Maidstone House, King Street, Maidstone ME15 6JQ  
Tel: 01622 602736 email: [planningsupport@midkent.gov.uk](mailto:planningsupport@midkent.gov.uk)  
Access planning services online at: [www.maidstone.gov.uk](http://www.maidstone.gov.uk); or submit an application via  
[www.planningportal.gov.uk](http://www.planningportal.gov.uk)

APPENDIX 1

1 of 3

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6.10.2015.

**ADDRESS:** Land North West To Loder Close Lenham Kent

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The Council hereby **REFUSES** Planning Permission for the above for the following Reason(s):

- (1) The development of this prominent greenfield site which lies outside the built up extent of Lenham would result in harm to the character, appearance and landscape of the surrounding area which is located adjacent the Kent Downs Area of Outstanding Natural Beauty, from which distant and local views of the site are available, contrary to policies ENV28 and ENV33 of the Maidstone Borough-Wide Local Plan (2000) and paragraph 109 of the National Planning Policy Framework.
- (2) The dwelling proposed at plot 45, by reason of its siting, height and design, would appear as a visually intrusive and oppressive structure which would be damaging to the residential amenities of the adjacent property located in Westwood Close to the east of site. This is therefore contrary to the Maidstone Borough Wide Local Plan 2000 and NPPF.
- (3) By reason of the lack of information submitted, it is not possible to fully assess the impact that the proposal would have with regard to surface water drainage within the application site and surrounding area. The application thereby fails to comply with central government planning policy as set out in section 10 of the National Planning Policy Framework 2012 and the National Planning Practice Guidance.
- (4) By reason of the lack of information submitted, it is not possible to fully assess the impact that the proposal would have on the ecology/biodiversity within the application site and surrounding area. The application thereby fails to comply with central government planning policy as set out in section 11 of the National Planning Policy Framework 2012 and Circular 06/2005.
- (5) In the absence of an appropriate legal mechanism to secure 40% affordable housing and necessary contributions towards primary education and local libraries within the local area, the impact of the development would be detrimental to existing social infrastructure and therefore contrary to policy CF1 of the Maidstone Borough-Wide Local Plan (2000), Affordable Housing DPD (2006) and central government planning policy as set out in the National Planning Policy Framework 2012.



The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was considered to be fundamentally contrary to the provisions of the Development Plan and the NPPF, and these were not considered to be any solutions to resolve this conflict.

*R. L. Jarman*

**Rob Jarman  
Head of Planning Services  
Maidstone Borough Council**

**IMPORTANT:- YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES**

APPENDIX 1  
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<b>NOTES FOR TECH:</b>		
<b>APPLICATION PROPOSAL</b>		<b>Ref No 15/507941/FULL</b>
Residential development of 45 two, three and four bedroom traditional two storey houses inclusive of 40% affordable housing including provision of open space, with vehicular access via Loder Close off Ham Lane as shown on drawing numbers J50.80/01, WH-L-C-001 REV A, WH-LC-002, WH-LC-003, WH-LC-004, WH-LC-005, WH-LC-006, WH-LC-007, WH-LC-P1-3-01, WH-LC-P1-3-02 Rev A, WH-LC-P10-12-01, WH-LC-P10-12-02, WH-LC-P10-12-03, WH-LC-P13-14-01, WH-LC-P13-14-02, WH-LC-P15-16-01, WH-LC-P15-16-02 Rev A, WH-LC-P17-01, WH-LC-P17-02, WH-LC-P18-20-01, WH-LC-P18-20-02, WH-LC-P21-22-01, WH-LC-P21-22-02 Rev A, WH-LC-P23-24-01, WH-LC-P23-24-02, WH-LC-P25-26-01, WH-LC-P25-26-02 Rev A, WH-LC-P27-28-32-01 Rev A, WH-LC-P27-28-32-02 Rev A, WH-LC-P29-31-01, WH-LC-P29-31-02, WH-LC-P29-31-03 Rev A, WH-LC-P33-01 Rev A, WH-LC-P33-02 Rev A, WH-LC-P34-01 Rev A, WH-LC-P34-02 Rev A, WH-LC-P35-01 Rev A, WH-LC-P35-02 Rev A, WH-LC-P36-37-01, WH-LC-P36-37-02, WH-LC-P38-40-01, WH-LC-P38-40-02, WH-LC-P38-40-03, WH-LC-P4-9-01, WH-LC-P4-9-02, WH-LC-P4-9-03 Rev A, WH-LC-P41-43-01, WH-LC-P41-43-02 Rev A, WH-LC-P44-45-01, WH-LC-P44-45-02; received on 6.10.2015.		
<b>ADDRESS</b> Land North West To Loder Close Lenham Kent		
<b>RECOMMENDATION</b> - Application Refused		
<b>WARD</b> Harrietsham And Lenham Ward	<b>PARISH/TOWN COUNCIL</b> Lenham	<b>APPLICANT</b> Wealden Ltd <b>AGENT</b> Wealden Homes
<b>DECISION DUE DATE</b> 30/12/15	<b>PUBLICITY EXPIRY DATE</b> 17/03/16	<b>OFFICER SITE VISIT DATE</b> 12/10/15
<b>RELEVANT PLANNING HISTORY (including relevant history on adjoining site):</b>		
No planning history on the application site. There is relevant planning history on the adjoining agricultural field to the north as follows:		
14/502973/FULL - Erection of 82 new residential dwellings together with access onto Ham Lane, internal roads, parking, landscaping and ancillary works on land at Ham Lane – Refused at planning committee for the following reason:		
The development proposed would not constitute good design by reason of its layout (including inadequate space for structural landscaping) and scale. It would therefore be harmful to the character and appearance of the open countryside, including the setting of the Kent Downs Area of Outstanding Natural Beauty. The application is therefore contrary to the National Planning Policy Framework, in particular paragraphs 56, 57, 58 and 109; and 'saved' Policies ENV28 and ENV33 of The Maidstone Borough-Wide Local Plan 2000.		
16/500229/FULL - Erection of 67 new residential dwellings together with access onto Ham Lane, internal roads, parking, landscaping and ancillary works – Resubmission of the above application – the decision is pending.		

#### DESCRIPTION OF SITE

The application site relates to a parcel of agricultural land to the west of Lenham village. To the east of the site are two cul-de-sac developments known as Loder Close and Westwood Close, both of which are accessed from Ham Lane. To the south of the site is the village playing field which contains football pitches with parking and changing facilities. To the west and north of the site are agricultural fields / open countryside and further to the north are the North Downs Area of Outstanding Natural Beauty and North Downs Special Landscape Area.

The site is approximately 1.85 hectares in size and lies to the west of Ham Lane and the houses located on Loder and Westwood Close. The site is currently a single field of pasture land with no built development. There are no trees or significant vegetation other than on the site boundaries. The northern boundary includes sporadic tree / hedge planting and there is less vegetation on the west boundary. The southern boundary is lined by fairly substantial vegetation separating the site from the adjacent sports pitches. The eastern boundary of the site consists mainly of residential post and wire / close boarded fencing / landscaping of the residential properties.

### **PROPOSAL**

Residential development of 45 two, three and four bedroom traditional two storey houses inclusive of 40% affordable housing including provision of open space,

Vehicles access would be afforded via Loder Close off Ham Lane with a primary route looping though the site with three ancillary cul-de-sac roads coming off the primary road.

The proposed houses would all be two storey in height and of a traditional appearance with facing brickwork, weather boarding, tile hanging and either clay or slate roof tiles. Houses would generally front onto the access roads within the site. There would be a central island containing seven houses with the remaining units backing onto the four site boundaries.

An area of open space is proposed to the north of the access road at the entrance of the site. The open space would abut the east boundary of the site adjoining Westwood Close. The proposed layout includes tree planting within the area of open space and along the access road. A public footpath connection is shown on the north and south boundary of the site with a potential to link the application site to the adjoining site to the north and the sports field to the south, should these links become available in the future.

18 affordable units are proposed in total. The affordable units would be located in the northeast, southeast and southwest corners of the site. A pumping station would be located in the southwest corner of the site.

### **PLANNING CONSTRAINTS**

Development in the open countryside. The North Downs ANOB and Special Landscape Area are located to the north / northeast of the site on the northern side of the A20.

### **POLICY AND OTHER CONSIDERATIONS**

Maidstone Borough-Wide Local Plan 2000: ENV6, ENV21, ENV28, ENV33, ENV34, ENV49, T13, T21, CF1,

The National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Supplementary Planning Documents: Affordable Housing Development Plan Document (2006), Open Space Development Plan Document (2006)

Draft Lenham Neighbourhood Plan (Regulation 14)

Maidstone Borough Council Draft Local Plan

### **LOCAL REPRESENTATIONS**

Some 55 local residents have objected (it is noted that the website shows a number of duplicate objections). The following (summarised) issues were raised:

- Loss of privacy / overlooking.
- Noise and disturbance from vehicle and occupation.
- Traffic / parking congestion / highways safety.
- Increased pressure on local infrastructure; schools, doctors, roads.

- Increase pollution.
- Ecology / biodiversity impacts.
- Continued housing developments will lead to Lenham merging with Harrietsham.
- Lenham is becoming overdeveloped.
- Devaluation of neighbouring properties.
- Loss of outlook.
- Visual impact / harmful impact on the open countryside and setting of the ANOB.
- The site is visible from PROW on the North Downs.
- Loss of trees / hedges.
- Contrary to draft Neighbourhood Plan.
- The site has a high landscape sensitivity
- Compromises security of neighbour properties.
- Combined impact of recent developments in Lenham should be considered.
- Greenfield site.
- Flood risk.
- No consultation with the local community by the developer.
- No visual impact assessment.
- The site is outside the village envelope.
- The Ecology report reviews to the wrong site.
- Layout and density of the proposed development.
- Sustainability.

Lenham Parish Council objects to the proposal on the following summarised grounds:

- Overlooking, Loss of Privacy, and Loss of Security
- Design
- Ecology and Conservation
- Flood Risk
- Visual Impact and Landscaping
- Sustainability
- Transport/Traffic
- Conflict with the Lenham Neighbourhood Plan

Cllrs Sams object on the following grounds:

- Highways issues potential impact on Ham Lane
- Coalescence to Harrietsham
- Development in open countryside
- Loss of agricultural land
- Impact on the setting of the ANOB

## CONSULTATIONS

**Kent Police:** No objections.

**UK Power Networks:** No objections.

**Southern Gas Networks:** Advise on the location of gas mains.

**KCC Highways:** A development of this scale at this location is acceptable in trip generation terms. No objections subject to conditions.

**KCC Sustainable Drainage:** Initial comments received on 19.10.2015 advising insufficient information had been provided to determine whether adequate drainage provision has been

considered for the development proposed. KCC recommended that a detailed surface water management strategy for the site needs to be provided.

Since their initial comments KCC Sustainable Drainage has been in discussion with the developer's drainage specialist and further drainage details have been provided including information on cellular storage. KCC provided further comments on 2.11.2015 advising that the drain time is excessive due to the low infiltration rates and therefore it is not considered acceptable or compliant with either KCC's Drainage and Planning Policy Statement (SuDS Policy 2) or the Non-Statutory Technical Standards (S7 or S8). In addition, the reliance on base soakage may be problematic in the longer term due to silting of the base of the soakaway. Additional investigations were recommended by KCC. To date no further information has been provided to address KCC most recent comments.

**MBC Landscape Officer:** Initial comments received on 21.10.2015 advising that a landscape visual appraisal and a full tree condition survey in accordance with BS5837: 2012 as usually required, had not been submitted. The landscape officer commented that the soft landscaping proposal contains too few native tree species and too many native hedge species.

**Natural England:** Insufficient information to assess the impact of the proposed development on the ANOB. Advises an LVIA should be submitted and consultation with the Kent Downs AONB Unit.

**MBC EHO:** There are no Environmental Protection concerns in relation to land contamination, radon and air quality. Given the proximity of the A20 EHO advise that an acoustic assessment should be undertaken. No objections subject to conditions and informatives.

**KCC Ecology:** Initial comments dated 4.11.2015 advised that The Ecological Scoping Survey report submitted in support of this application provides the results of a survey carried out on the field to the north of this proposed development site. An ecological assessment of the site is necessary. KCC also advise that given the presence of great crested newts in the Lenham area, an assessment of the pond in the new development adjacent to the site should be carried out; it may be necessary to carry out great crested newt surveys of this pond.

**Environment Agency:** Has assessed the application as having a low environmental risk and therefore have no comments to make.

**Southern Water:** Advise that there is currently inadequate capacity in the local network to provide foul sewage disposal to service the proposed development. *'The proposed development would increase flows to the public sewerage system, and existing properties and land may be subject to a greater risk of flooding as a result. Additional off-site sewers or improvements to existing sewers will be required to provide sufficient capacity to service the development. Section 98 of the Water Industry Act 1991 provides a legal mechanism through which the appropriate infrastructure can be required (by the developer) and provide to drain to a specific location'*. Southern Water investigations indicate that there are no public water sewers in the area to serve the development. Alternative means of draining surface would be required which does not involve disposal to a public foul sewer. Advise KCC Lead Local Flood Authority should be consulted and request a condition for details of foul and surface water drainage should the application gain consent. Southern Water recommend informatives and conditions should the application be approved.

**KCC Development Contributions:**

*'The County Council has assessed the implications of this proposal in terms of the delivery of its community services and is of the opinion that it will have an additional impact on the delivery of its services, which will require mitigation either through the direct provision of infrastructure or the payment of an appropriate financial contribution'.*

**Primary Education Provision:** Primary Education contribution of £92,077.44 towards the Phase 2 Expansion of Harrietsham Primary School.

The proposal gives rise to 11 additional primary school pupils during occupation of this development. This need, cumulatively with other new developments in the vicinity, can only be met through Phase 2 expansion of Harrietsham Primary School locally, as the forecast primary pupil product in the locality results in the maximum capacity of local primary schools being exceeded (Appendix 1).

This proposal has been assessed in accordance with the KCC Development Contributions Guide methodology of 'first come, first served' assessment; having regard to the indigenous pupils, overlain by the pupil generation impact of this and concurrent new residential developments on the locality.

The County Council requires a financial contribution towards Phase 2 expansion of Harrietsham Primary school at £2360.96 per 'applicable' house (x39) ('applicable' means: all dwellings except 1 bed of less than 56sqm GIA – please confirm the 6 x 1 bed units are less than 56sqm GIA?)

**Libraries Contribution:** A contribution of £2160.71 towards new book stock supplied to Lenham Library to mitigate the impact from this development.

The bookstock for Lenham at 1083 per 1000 population is below the County average of 1134 and both the England and total UK figures of 1399 and 1492 respectively.

This development will generate new active borrowers requiring additional items to service their requirements as set out in Appendix 2. Kent County Council will mitigate this impact through the provision of additional bookstock to the Lenham Library, local to the development and will be delivered as and when the monies are received.

**MBC Housing:** No comments received.

**MBC Public Open Space:** No comments received.

**Kent Wildlife Trust:** No comments received.

**Upper Medway Internal Drainage Board:** No comments received.

**NHS:** *'In terms of this particular application, a need has been identified for contributions to support the delivery of investments highlighted within the Strategic Service Development Plan. These improvements to the primary care infrastructure will enable support in the registrations of the new population, in addition to the commissioning and delivery of health services to all. This proposed development noted above is expected to result in a need to invest in a number of local surgery premises:*

- Len Valley Practice

*The above surgeries are within a 1.5 mile radius of the development at Loder Close. This contribution will be directly related to supporting the improvements within primary care by way of extension, refurbishment and/or upgrade in order to provide the required capacity.*

APPENDIX 2  
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The application identifies unit sizes to calculate predicted occupancy multiplied by £360 per person. When the unit sizes are not identified then an assumed occupancy of 2.34 persons will be used.

Predicted Occupancy rates

- 1 bed unit @ 1.4 persons
- 2 bed unit @ 2 persons
- 3 bed unit @ 2.8 persons
- 4 bed unit @ 3.5 persons
- 5 bed unit @ 4.8 persons

Predicted Occupancy rates	Total number in planning application	Total occupancy	Contribution sought (Occupancy x £360)
2	6	12	£4,320
2.8	15	42	£15,120
3.5	6	21	£7,560
			£27,000

NHS Property Services Ltd therefore seeks a healthcare contribution of £27,000, plus support for our legal costs in connection with securing this contribution. This figure has been calculated as the cost per person needed to enhance healthcare needs within the NHS services.

I can confirm that this request meets with CIL regulations and there is no more than 5 pooled contributions for this Surgery'.

**AMENDMENTS/ADDITIONAL DOCUMENTS**

A Landscape Visual Appraisal by La Dell Wood was received on 5.11.2015.

A Noise Assessment by Peter Moore Acoustics Ltd was received on 6.01.2016.

An Ecology Scoping Survey was received on 3.03.2016.

**APPRAISAL**

**Principle of Development**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that all planning applications must be determined in accordance with the Development Plan unless other material considerations indicate otherwise. In this case the Development Plan comprises the Maidstone Borough-Wide Local Plan 2000, and as such the starting point for consideration of the proposal is policy ENV28 which relates to development within the open countryside. The policy states that:

*"In the countryside planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers, and development will be confined to:*

- (1) that which is reasonably necessary for the purposes of agriculture and forestry; or
- (2) the winning of minerals; or
- (3) open air recreation and ancillary buildings providing operational uses only; or
- (4) the provision of public or institutional uses for which a rural location is justified; or
- (5) such other exceptions as indicated by policies elsewhere in this plan."

In this case, none of the exceptions against the general policy of restraint apply, and therefore the proposal represents a departure from the Development Plan. It then falls to be considered firstly whether there are any material considerations which indicate that a decision not in accordance with the Development Plan is justified in the circumstances of this case, and (if so) secondly whether a grant of planning permission would result in unacceptable harm, such that notwithstanding any material justification for a decision contrary to the Development Plan, the proposal is unacceptable.

The key material consideration outside of the Development Plan in the determination of applications for residential development in the open countryside is national planning policy as set out in the National Planning Policy Framework 2012 (NPPF) and the Council's position in respect of a five year housing land supply.

In terms of other material considerations, the National Planning Policy Framework (NPPF) is a key consideration, particularly with regard to housing land supply. Paragraph 49 of the NPPF states that:-

*"Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five years supply of deliverable housing sites."*

The Council has undertaken a Strategic Housing Market Assessment (SHMA) which was completed in January 2014. This work was commissioned jointly with Ashford and Tonbridge and Malling Borough Councils. A key purpose of the SHMA is to quantify how many new homes are needed in the borough for the 20 year period of the emerging Local Plan (2011-31). The SHMA (January 2014) found that there is the objectively assessed need (OAN) for some 19,600 additional new homes over this period which was agreed by Cabinet in January 2014. Following the publication of updated population projections by the Office of National Statistics in May, the three authorities commissioned an addendum to the SHMA. The outcome of this focused update, dated August 2014, is a refined objectively assessed need figure of 18,600 dwellings. This revised figure was agreed by Cabinet in September 2014. Since that date revised household projection figures have been published by the Government and as a result the SHMA has been re-assessed. At the meeting of the Strategic Planning, Sustainability and Transport Committee on 9 June 2015, Councillors agreed a new OAN figure of 18,560 dwellings.

The new Local Plan has advanced and is out to Regulation 19 publication being the Plan that the Council considers is ready for examination. The Plan is scheduled for submission to the Planning Inspectorate for examination in May 2016, with the examination expected to follow in September. The Plan allocates housing sites considered to be in the most appropriate locations for the Borough to meet the OAN figure, and will enable the Council to demonstrate a 5 year supply of deliverable housing sites when it is submitted to the Inspectorate in May. Clearly the Local Plan is gathering weight as it moves forward, but it is not considered to have sufficient weight to rely solely on to refuse or approve a planning application.

Notwithstanding this, it remains the case the most recently calculated supply of housing, which assesses extant permissions and expected delivery, is from April 2015. This demonstrates a 3.3 year supply of housing assessed against the OAN of 18,560 dwellings. A desk based review of housing supply undertaken in January 2016 to support the Regulation 19 Local Plan housing trajectory suggests that there remains a clear and significant shortfall of supply against the five year requirements.



The Council's five year supply position will be formally reviewed in April/May in order to support the submission of the Local Plan to examination in May. Before the Local Plan is submitted however, the Council will remain unable to demonstrate a 5 year supply of deliverable housing sites.

This lack of a 5 year supply is a significant factor and at paragraph 49 of the NPPF it is stated that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant policies for the supply of housing (such as ENV28 which seeks to restrict housing outside of settlements) should not be considered up-to-date if a 5 year supply cannot be demonstrated. The presumption in favour of sustainable development in this situation means that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits of the application, when assessed against the policies of the NPPF as a whole.

In respect of the circumstances of the specifics of this case, the proposal site is located on the edge of Lenham village, in reasonable proximity to the services in the village centre as well as good public transport links via Lenham train station and bus routes along the A20 between Maidstone and Ashford. The nearest bus stops are located on Ham Lane. The site is located within an acceptable and safe walking distance of the core village centre, primary and secondary schools, bus stops and Lenham train station.

The draft Local Plan identifies Lenham as a Rural Service Centre and the Plan states that outside the Maidstone urban area, rural service centres are the second most sustainable settlements in the hierarchy to accommodate growth. The site / west side of the existing village is identified as a broad location for growth for the delivery of approximately 1,500 dwellings in the latter period of the draft plan, in accordance with policy H2(3).

In this context, it is considered that the location of the site is sustainable in the terms of the NPPF as it is located on the edge of the Lenham village boundary and within walking distance to the shops, services, employment opportunities, schools and train and bus stops within the village.

The Council is not in a position to demonstrate a five year housing land supply, and as such normal restraints on residential development in the open countryside do not currently apply as the adopted Local Plan is considered out of date. The development of this site is in accord with the objectives of the NPPF being located adjacent Lenham village and in a sustainable location.

In regard to the draft Lenham Neighbourhood Plan (NP), the NP is at for Regulation 14 stage and is therefore is only afforded limited weight at this stage. The draft NP plan does not support any future housing growth to the west of the existing village. The proposed development would therefore conflict with the aims and objectives of the emerging NP and the Parish Council object to the proposal. The NP is a material consideration, however, as the Borough cannot demonstrate a 5 year housing supply the relevant policies for the supply of housing in the NP are not considered up to date, due to the lack of five year housing land supply.

Given the sustainable location of the application site on the edge of the village, on balance, the principle of residential development is accepted in accordance with the NPPF. In the circumstances of this case, the key planning issues are considered to be visual impact (including whether the site can suitably accommodate the development), residential amenity, access/highway safety, ecology and flood risk.

### Visual impact

The application site is an open broadly rectangle parcel of farmland located to the west of Lenham village. The site is relatively flat and has mainly open farmland / countryside to the north and west. To the east of the site are the relatively new residential cul-de-sac developments at Loder Close and Westwood Close. To the south of the site are the village playing fields / football pitches. Further to the north / northeast of the site on the north side of the A20 is the Kent Downs Area of Outstanding Natural Beauty (AONB) and Special Landscape Area. The site is considered to be within the setting of the ANOB. The adjoining field to the north of the site is the subject of a current planning application for housing development (ref: 16/500229/FULL) which is yet to be determined and there is also a live appeal on the neighbouring site for housing development (ref: 14/502973/FULL). As neither of these applications have been determined they are not afforded any weight in the decision making process.

The site would be largely screened from the east / Ham Lane by the existing residential developments at Loder Close and Westwood Close which include 2, 2½ and 3 storey buildings. Fairly substantial boundary treatment along the southern boundary of the site would assist in screening the development from the south. From the west and north the site is more open and visible and these are arguably the more important viewpoints given the rural setting immediately to the north and west, and the location of the ANOB further to the north. There is sporadic tree and hedge planting along the northern boundary of the site and there is further sporadic vegetation / tree planting along the south side of the A20 adjacent the neighbouring site. There is limited boundary planting along the west boundary of the site. From the rising ground within the ANOB to the north views of the site are possible from the footpaths and bridleways and from the higher escarpment the site is visible within the patchwork landscape. On lower and closer land to the north, northeast and northwest the site would be visible from the A20 and Ham Lane.

Although the site is not within the AONB, and so certain policy considerations within the LP and Framework do not apply, the national Planning Practice Guidance (PPG) sets out that the duty to 'have regard' to the purposes of the AONB is relevant to land within the AONB and also "...is relevant in considering development proposals that are situated outside...Area of Outstanding Natural Beauty boundaries, but which might have an impact on the setting of, and implementation of, the statutory purposes of these protected areas."

Given the relatively limited screening along the north and west boundary of the application site and due to the open landscape immediately adjacent the site to the north, west and to some degree the south the application site is seen, and forms part of, the open and undeveloped land adjacent the site. Limited planting to the west and north forms a boundary to the site however this does not mean that the application site is separate from the wider open area, it reads as one component part of it and is visually separated from the built development to the east. The application site would protrude into the open countryside beyond the developed boundary of the village which in my view would currently be defined by the western edge of Loder Close and Westwood Close.

The main change in character would be experienced when travelling along the A20 and Ham Lane where the proposed housing development would be clearly visible and would fail to integrate with the existing building development to the east. Wider ranging views would also be afforded from the public footpaths and bridleways within the North Downs where the site would appear as an unnatural extension to the village and an erosion of the open countryside.

The proposed layout indicates houses backing onto the north and east boundary of the site with small back gardens limiting space for substantial landscaping to be provided along these boundaries, and the housing development would be clearly visible from the public

vantage points highlighted above. As indicated above the field to the north is the subject of a planning application and appeal for housing developments of circa 60 and 80 units, which may act as a screen / buffer between the application site and ANOB in the future. However, at this time the proposal would introduce development into an area that would be visible and so it would not be seen within the context of the built settlement but an intrusion into the countryside.

The development of this site would also be contrary to policy ENV21 (Strategic Transportation Corridors) of the Maidstone Borough-Wide Local Plan. Policy ENV21 states development will not be permitted which would harm the character, appearance and goes on to advise that the character, appearance and functioning of the strategic transportation routes within the Borough are important in terms of their influence on the perceptions of visitors and potential investors. The site would be visible from the A20, which is a strategic transportation corridor and for the reasons stated above the development would have a negative visual impact when viewed from this strategic route.

Therefore, I consider that the development of the application site with 45 houses would have a significant and negative effect on the open character of the countryside. I do not consider that this would be outweighed by the prospect of additional landscaping within the application site. In addition, although the site is not within the AONB, I consider that it forms part of the immediate setting of the AONB and its openness and appearance gives a clear visual association with land within the AONB. The loss of the character and openness of the site would have a clear and negative effect on the setting of the AONB here. As a consequence, the proposal is contrary to the aims of Policy ENV34 of the LP and the advice set out in the PPG.

#### **Residential Amenity**

To the east of the site are the residential properties in Loder Close and Westwood Close. The neighbouring residential properties have rear gardens backing onto the application site mostly with post and wire boundary treatment which allows clear views into the site from the rear gardens. The rear gardens of the properties in Westwood Close are short (approx. 4m) in places and the rear elevations of these properties are close to the site boundary.

The proposed layout indicates an area of open space adjacent to the vehicle entrance along the eastern boundary of the site. This area of open space would ensure a majority of the properties in Westwood Close are afforded an acceptable level of outlook and light. However, plot nos. 44 and 45 in the northeast corner of the site would be located in proximity to the eastern site boundary. The flank wall of plot 45 would, by reason of its height, width, stark appearance and siting in proximity to the site boundary, appear as a visually intrusive and oppressive structure which would be damaging to the visual amenity and outlook currently afforded from the rear windows and private outdoor amenity space of the adjacent residential property in Westwood Close. This unacceptable impact on neighbour residential amenity is a result of a poor site layout and indicative of overdevelopment of the site.

The rear gardens of plots 1-9 would back onto the eastern boundary of the site and the properties in Loder Close adjacent the site boundary benefit from larger rear gardens than those in Westwood Close. The outlook from the rear windows and garden areas in Loder Close would undoubtedly change, however, I consider there would be sufficient a separation between the proposed units and existing houses on Loder Close such that an objection on amenity grounds could not be sustained.

There is no residential development to the north, south and west of the site which would be affected by the proposed development.

### **Infrastructure**

A development of this scale is clearly expected to place extra demands on local services and facilities and it is important to ensure that the development can be assimilated within the local community. As such suitable contributions to make the development acceptable in planning terms can be sought in line with policy CF1 of the Local Plan.

However, any request for contributions needs to be scrutinised, in accordance with Regulations 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010. This has strict criterion that sets out that any obligation must meet the following requirements: -

It is:

- (a) necessary to make the development acceptable in planning terms;*
- (b) directly related to the development; and*
- (c) fairly and reasonably related in scale and kind to the development.*

*A planning obligation ("obligation A") may not constitute a reason for granting planning permission to the extent that —*

- (a) obligation A provides for the funding or provision of an infrastructure project or type of infrastructure; and*
- (b) four or more separate planning obligations that—*
  - (i) relate to planning permissions granted for development within the area of the charging authority; and*
  - (ii) which provide for the funding or provision of that project, or type of infrastructure have been entered into before the date that obligation A was entered into.*

This section came into force on 6<sup>th</sup> April 2015 and means that planning obligations cannot pool more than 4 obligations of funding towards a single infrastructure project or type of infrastructure (since April 2010).

The following contributions have been sought:

There are requests made by Kent County Council as the Local Education Authority towards primary school education contributions that amounts to £92,077.44 towards the second phase of Harrietsham Primary School. There will be a greater demand placed on schools within the local area from the occupants of the 45 dwellings and information submitted by County shows that these are at capacity and as such the contribution is considered justified and appropriate in order to extend the existing school at Harrietsham.

Kent County Council has sought £2160.71 towards new book stock supplied to Lenham Library. It is likely that the proposed development of 45 dwellings would result in additional demand placed on the book stock at Lenham library and I consider that it would be appropriate if approving the application to secure the appropriate level of contribution.

The NHS has sought a contribution of £27,000 towards Len Valley Practice which is within 1.5 miles of the of the development site. It is likely that the proposed development of 45 dwellings would result in additional demand placed on the book stock at Lenham library and I consider that it would be appropriate if approving the application to secure the appropriate level of contribution.

Justification for the contributions is outlined above and also within the consultation responses from KCC Economic Development and the NHS and I consider that the requested contributions have been sufficiently justified to mitigate the additional strain the development

would put on these services and comply with policy CF1 of the Maidstone Borough-Wide Local Plan (2000) and the CIL tests above.

### **Drainage and flooding**

The site is located in Flood Zone 1 and the Environment Agency has raised no objections on flood grounds advising that the development of this site presents a low environmental risk in terms of flood risk in terms of fluvial flooding.

KCC Sustainable Drainage assesses surface water drainage and has raised concerns regarding surface water drainage on nearby sites. KCC advise that it is important that these problems are not replicated on this site. No drainage information was submitted with the application in the first instance. Sustainable drainage solutions have been discussed between KCC and the developer's drainage specialist, however, to date an acceptable drainage management strategy for the site / development has not been submitted. In the absence of the an acceptable sustainable drainage plan it is not possible to fully assess the impact that the proposal would have with regard to surface water drainage within the application site and surrounding area. The application thereby fails to comply with central government planning policy as set out in section 10 of the National Planning Policy Framework 2012 and the National Planning Practice Guidance.

### **Highways**

A single vehicle access is proposed along the northern edge of Loder Close and would link the application site with Ham Lane. The existing access onto Ham Lane from Loder Close would be utilised / shared by the proposed housing development. Parking is proposed for all the residential with additional visitor parking proposed within the site.

KCC Highways has no objections to the proposed development in terms of additional trip generation, highways safety and parking provision and I do not considered there are any sustainable highways grounds to object to the proposed development.

### **Ecology**

Following the submission of a revised Ecology Report with an ecological investigation of the application site KCC Ecology are generally happy with the findings of the report and have advised that the site is likely to offer low potential for ecological habitats, although boundary hedgerows / trees have the potential to support nesting birds. However, KCC Ecology have advised that great crested newts are present in the Lenham area and have therefore recommended that further ecological surveys are required on a pond in nearby development (Westwood Close) to assess the potential impact of the development on great created newts. A further survey of this pond has not been provided.

In the absence of a further survey on the nearby pond it is not possible to fully assess the impact that the proposal would have on the great crested newts in the surrounding area. The application thereby fails to comply with central government planning policy as set out in section 11 of the National Planning Policy Framework 2012 and Circular 06/2005.

### **Affordable Housing**

The development is for a total of 45 units with the applicant proposing 40% affordable housing which equates to 18 units. The level of affordable housing is in accordance with council policy and although the Council housing department have not provided any comments it is considered that the mix of affordable units could have been agreed had the application been acceptable overall.

### **Environmental Impact Assessment**

The development is considered to fall within Schedule 2 development of the EIA regulations. Assessment against the EIA regulations should essentially answer the basic

premise of whether significant effects upon the environment are likely such that the proposal should be accompanied by an Environment Statement (ES).

The Annex to the EIA section in the NPPG provides a table which gives indicative screening thresholds and guidance to help determine whether significant effects are likely for this type of development. The guidance threshold for sites which have not been previously developed is as follows:

- The site area of the scheme is greater than 5 ha.
- The development includes more than 150 dwellings.

Overall, it is not considered that the development on its own or cumulatively would have significant effects upon the environment to warrant an ES. It is considered that the development would not be of more than local importance, and would not involve unusually complex and potentially hazardous environmental effects. The development also does not exceed the thresholds laid out under the NPPG and on this basis, it is not considered that an ES is required.

## **CONCLUSION**

The site is situated to the west of Lenham village which has a range of facilities and the site is therefore considered to be in a sustainable location. However, the site is located within the countryside where applications for residential development are generally resisted and the proposed development does not conform with policy ENV28 of the Maidstone Borough-wide Local plan 2000. However, it is considered that the location of the site is sustainable in the terms of the NPPF as it is located on the edge of the Lenham village and within walking distance to the shops, services, employment opportunities, schools and train and bus stops within the village. The Council is not in a position to demonstrate a five year housing land supply, and as such normal restraints on residential development in the open countryside do not currently apply as the adopted Local Plan is considered out of date.

The site is located in the open countryside, within the setting of the North Downs Area of Outstanding Natural Beauty and is visible from the A20 which is a strategic transportation route within the Borough. The development of this site would not assimilate into the village and would protrude into the open countryside beyond the established built development along Ham Lane. The land to the north and west of the site is open in character and affords views of the site from public vantage points. Proposed landscaping would fail to mitigate the visual impact of the development views from the A20 and Ham Lane and wider ranging views from footpaths to the north of the site would see this site in isolation and not in the context of the village.

Plot 45 would appear as a visually intrusive and oppressive structure which would be damaging to the visual amenity and outlook currently afforded from the rear windows and private outdoor amenity space of the adjacent residential property in Westwood Close. This unacceptable impact on neighbour residential amenity is a result of a poor site layout and indicative of overdevelopment of the site.

In the absence of sufficient information with regard to the proposed surface water management on the site, it is not possible to fully assess the impact that the proposal would have with regard to surface water drainage within the application site and surrounding area.

Similarly it is not possible to fully assess the impact that the proposal would have on the ecology/biodiversity within the application site and surrounding area with regard to great crested newt populations due to the level of information which has been provided.

Overall, whilst the lack of a five year supply of housing is a material consideration it is considered that the impact on the landscape, neighbouring amenity, ecology and surface water drainage are material considerations of greater weight to the extent that permission should be refused

**RECOMMENDATION** – Application Refused subject to the following reasons for refusal:

#### REASONS

- 1) The development of this prominent greenfield site which lies outside the built up extent of Lenham would result in harm to the character, appearance and landscape of the surrounding area which is visible from a strategic transportation routes and is located in the setting of the Kent Downs Area of Outstanding Natural Beauty, from which distant and local views of the site are available, contrary to policies ENV21, ENV28 and ENV33 of the Maidstone Borough-Wide Local Plan (2000) and paragraph 109 of the National Planning Policy Framework.
- 2) The dwelling proposed at plot 45, by reason of its siting, height and design, would appear as a visually intrusive and oppressive structure which would be damaging to the residential amenities of the adjacent property located in Westwood Close to the east of site. This is therefore contrary to the Maidstone Borough Wide Local Plan 2000 and NPPF.
- 3) By reason of the lack of information submitted, it is not possible to fully assess the impact that the proposal would have with regard to surface water drainage within the application site and surrounding area. The application thereby fails to comply with central government planning policy as set out in section 10 of the National Planning Policy Framework 2012 and the National Planning Practice Guidance.
- 4) By reason of the lack of information submitted, it is not possible to fully assess the impact that the proposal would have on the ecology/biodiversity within the application site and surrounding area. The application thereby fails to comply with central government planning policy as set out in section 11 of the National Planning Policy Framework 2012 and Circular 06/2005.
- 5) In the absence of an appropriate legal mechanism to secure 40% affordable housing and necessary contributions towards primary education and local libraries within the local area, the impact of the development would be detrimental to existing social infrastructure and therefore contrary to policy CF1 of the Maidstone Borough-Wide Local Plan (2000), Affordable Housing DPD (2006) and central government planning policy as set out in the National Planning Policy Framework 2012.

#### INFORMATIVES

{\bNote to applicant: REFUSAL}

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

APPENDIX 2

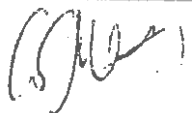
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Where possible, suggesting solutions to secure a successful outcome.  
As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was considered to be fundamentally contrary to the provisions of the Development Plan and the NPPF, and these were not considered to be any solutions to resolve this conflict.

Case Officer Andrew Jolly

Case Officer Sign:		Date:	31.3.16
Delegated Authority Sign:	M. H	Date:	31.3.16
TL/DM Countersign if refused:		Date:	



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Planning Policy & Environment  
Manager  
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24 September 2007

Our Ref: GOSE 102/002/MAID/SAVE  
Your Ref: 604/23/01

Dear Mr Thornton

**PLANNING AND COMPULSORY PURCHASE ACT 2004  
MAIDSTONE BOROUGH - WIDE LOCAL PLAN 2000 SAVED POLICIES APPLICATION**

I am writing with reference to your application on behalf of Maidstone Borough Council of 29 March for a direction under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004 in respect of policies in the Maidstone Borough - Wide Local Plan 2000.

The Secretary of State's Direction is attached. Those policies not listed in the Direction will expire on 27 September 2007.

The Secretary of State's assessment of whether saved policies should be extended is based upon the criteria set out in Planning Policy Statement 12: *Local Development Frameworks* and the Department for Communities and Local Government protocol on saving policies. The Secretary of State's decisions concern some policies where there have been representations from a third party expressing views that differ from those of the local authority. Also, her decisions in respect of some policies have the effect of saving policies that an authority requested should not be extended. For clarity, where either or both of these two circumstances apply, the Secretary of State's reasons are set out in the table at the end of this letter.

In relation to pages 56 & 57 of your Council's March 2007 Local Development Scheme, we would point out that there is no mechanism for saving supplementary planning guidance. Where the relevant parent policy has been saved, however, then supplementary planning guidance which was prepared in the proper manner may remain capable of being a material consideration.

The extension of saved policies listed in this Direction does not indicate that the Secretary of State would endorse these policies if presented to her as new policy. It is intended to

ensure continuity in the plan-led system and a stable planning framework locally, and in particular, a continual supply of land for development.

Local planning authorities should not suppose that a regulatory local plan-style approach will be supported in forthcoming development plan documents (DPDs). LPAs should adopt a positive, spatial, strategy-led approach to DPD preparation and not seek to reintroduce the numerous policies of many local plans.

The exercise of extending saved policies is not an opportunity to delay DPD preparation. LPAs should make good progress with local development frameworks according to the timetables in their local development schemes. Policies have been extended in the expectation that they will be replaced promptly and by fewer policies in DPDs. Maximum use should be made of national and regional policy especially given the development plan status of the regional spatial strategy.

Following 27 September 2007, the extended policies should be read in context. Where policies were adopted some time ago, it is likely that material considerations, in particular the emergence of new national and regional policy and also new evidence, will be afforded considerable weight in decisions. In particular, we would draw your attention to the importance of reflecting policy in Planning Policy Statement 3 *Housing* and the Housing Green Paper – *Homes for the future: more affordable, more sustainable* in relevant decisions.

Policy Ref	Reason	Extended	Not Extended
H3, H8, H11, H12, H13 & H16	It is considered important to save these policies for unimplemented site allocations as they support the delivery of housing.	√	
CF6	This policy should be saved as a consequence of extending Policies H1 and H12.	√	

Yours sincerely

John Cheston  
Senior Planning Officer

**APPENDIX 4**  
**ASSESSMENT OF HOUSING LAND SUPPLY**

**MAIDSTONE BOROUGH**

**FOR**  
**APPEAL AT LAND NORTH WEST TO LODER CLOSE, LENHAM**  
**ON BEHALF OF**  
**WEALDEN HOMES**

**BY**  
**PETER COURT**  
**PETER COURT ASSOCIATES**  
**CLEAVELAND**  
**CHART ROAD**  
**CHART SUTTON**  
**KENT**  
**ME17 3RB**

**SEPTEMBER 2016**

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### Assessment of Housing Land Supply

#### **1.0 Introduction**

1.1 This assessment of housing land supply has been undertaken in response to the publication by the Maidstone Borough Council of its Housing Topic Paper 2016. For several years the Council's position was that it did not have a five year supply of housing land. However, its Housing Topic Paper, which has a base date of 1<sup>st</sup> April 2016, now claims that it has a 5.12 year supply. In these circumstances it is necessary to assess the Council's Topic Paper in order to see if it does indeed have a five year supply. The context for this assessment lies in the National Planning Policy Framework. This, inter alia, requires local authorities to boost significantly the supply of land for housing and to provide five years worth of housing as set out in paragraph 47 of that document. In addition to this, local authorities are to promote and achieve sustainable development - which itself is described as the golden thread running through the whole document.

1.2 This assessment focusses on four issues: first, the treatment of the Council's latest assessment of its housing land supply by other Planning Inspectors; secondly, the calculation of the supply by the Council; thirdly, a critique of the Council's approach towards its objectively assessed housing needs and fourthly, its assessment of the capacity of individual sites that constitute part of the alleged five year supply.

#### **2.0 The approach adopted by Planning Inspectors**

2.1 Since the publication of its Housing Topic Paper the Council has requested that its latest assessment of housing land supply be taken into account by

Inspectors handling planning appeals. It is therefore appropriate to examine how other Inspectors have dealt with this relatively new evidence.

- 2.2 At a recent appeal, relating to land at Ham Lane, Lenham, by Jones Homes, (Appeal ref: APP/U2235W/15/3131945) the Council requested that the Inspector take this new assessment into account post inquiry.
- 2.3 In his decision letter dated 24<sup>th</sup> June 2016 the Inspector included the following statement: *“Notwithstanding the Council’s assertion post-Inquiry that it is now able to demonstrate a five -year housing land supply, as the authority’s up-to-date full objectively assessed housing needs have yet to be formally demonstrated, tested and endorsed through the thoroughness and robustness of the local plan process, I cannot be satisfied that a five -year housing land supply exists. Accordingly, I consider that paragraphs 49 and 14 are engaged.”* (Inspector’s Decision Letter, paragraph 57.)
- 2.4 It is agreed that the Inspector was referring to paragraphs 49 and 14 of the National Planning Policy Framework when making the above statement.
- 2.5 The Inspector then added that: *“In accordance with the judgment of the Court of Appeal in Suffolk Coastal District Council and Hopkins Homes Limited and the Secretary of State for Communities and Local Government, and Richborough Estate Partnership LLP and Cheshire East Borough Council 2016 (ECWA Civ 168), I find that Policy ENV28, Policy ENV33 and Policy ENV34 of the saved Local Plan, Policy SP17 of the emerging Local Plan , and the accompanying settlement boundaries, and the Strategy Plan and associated policies of the Neighbourhood Plan all, to varying degrees, create or constrain housing land supply and, accordingly, are to be considered out of date.”* (Inspector’s Decision Letter, paragraph 58). The relevant extract of the Inspector’s Decision Letter is attached as **Appendix 1**.

- 2.6 In his Decision Letter regarding land adjacent to Highfield House, Marden, (APP/U2235/W/15/3140679), dated 20<sup>th</sup> July -and nearly one month after the Jones Homes decision, this Inspector also took the view that the Council still did not have a five year supply of housing land. He said, in paragraph 21 of his Decision Letter, that *“Although I have found the development acceptable anyway, the Council’s lack of a five year housing supply further reinforces my view that the development should be permitted.”* The extract from that decision is attached as **Appendix 2**.
- 2.7 The third appeal decision which is relevant in this context is that regarding a site known as Appleacres, Maidstone Road, Sutton Valence, Maidstone, Kent. ME17 3LR (APP/U2235/W/16/3146765). It comprised a proposal for six dwellings on a greenfield site. The submission of the appeal on the grounds of non-determination was made in March 2016, at a time when the Council acknowledged that it did not have a five year supply of housing land. Nevertheless, this Inspector’s decision is dated 4<sup>th</sup> August, several months after the Council produced its Housing Topic Paper and some six weeks after another Inspector determined the Jones Homes appeal at Lenham.
- 2.8 It is clear from his decision letter that this Inspector took account of the fact that the Council’s stance on housing land supply had changed from that when it made its decision to refuse permission, as can be seen from the following extract from his decision letter (paragraph 12): *“The Council acknowledges that it cannot demonstrate a five year housing land supply as required by the national Planning Policy Framework (the Framework) and the parties agree that the supply stands at 3.3 years. In this circumstance, paragraph 49 of the Framework states that policies for the supply of housing should not be considered up-to-date. The Council states that its draft Local Plan is about to be submitted for examination and that this would make provision for the objectively assessed housing need. However, the draft Local Plan carries little weight at this stage. Although the Council may have identified a supply in its*

*draft submission this does not mean that the sites identified are available for development."*

2.9 It should be noted that some of the proposed allocations in the draft plan count towards the alleged five year supply and therefore the Inspector's conclusion that this does not mean that they are available for development is most important. The extract from the Decision Letter is attached as **Appendix 3**.

2.10 Overall, these decisions were made following the publication of the Council's Housing Topic Paper, which included its new contention that it now had a five year supply of housing. The Jones Homes Inspector concluded that that assessment needed to undergo examination at the Local Plan Inquiry and, until then, he held that Maidstone did not have a five year supply. The other Inspectors did not depart from this stance.

### **3.0 The calculation of the supply of housing land**

3.1 The Council's calculation of its housing land supply is set out on page 16 of its Housing Topic Paper 2016. It shows that a buffer of 5% has been applied to the residual requirement - a relatively small allowance of 321 dwellings.

3.2 It is contended that the Council should have instead added a 20% buffer, as set out in paragraph 47 of the Framework, totalling 1284 dwellings. The reason for this is that it is clear from the table of completions during the first five years of the period of the local plan (as shown on page 6 of the Housing Topic Paper) that the Council has failed on every occasion to meet its annual requirement of 928 dwellings. It is therefore submitted that this constitutes a record of persistent under delivery of housing and therefore, in accordance with paragraph 47 of the Framework, a 20% buffer should be added to the Council's requirement. This would therefore increase the requirement by 963 dwellings. As the Council's alleged surplus is only 155 dwellings, then this



becomes a shortfall of 808 units. The Council therefore has a supply of only 4.48 years. This, moreover, is before any assessment of individual sites is taken into account. The calculation of this figure of 4.48 years is shown in **Appendix 4.**

3.3 The Council's argument that, during the early part of the plan period it met the requirement as set out in the South East Plan is simply disingenuous. The Framework is clear as to what is required. The Council has chosen the period of the plan as starting from 2011 and its objectively assessed need applies from this date.

#### 4.0 **The stance of the Council towards its objectively assessed housing needs**

4.1 The objectively assessed need, (OAN) as set out in the submitted draft of the local plan, is for 18,560 dwellings in the period 2011-2031. It is clear, however, that this has been subject to much political argument. A previous forecast of the OAN, namely 19,600, had been reduced to the current figure. Nevertheless, this lower figure is still subject to substantial criticism by councillors and other parties as being too high, while landowners and developers have objected to it as being too low. All of those objections will therefore be considered at the local plan examination. It is therefore submitted that the Inspector handling the appeal by Jones Homes was absolutely correct when he concluded that it would be appropriate to await the outcome of the local plan examination before any decision could be made about the OAN for the plan period itself, and about the individual sites that contributed towards the Council's calculation of housing land supply.

4.2 Indeed, the Council is very anxious to have its local plan adopted as soon as possible, since it is very concerned that the OAN could well be increased on the basis of a more recent assessment. This is made clear in the appended lead article from a local newspaper, The Downs Mail, of August 2015, which

has the headline "let's act fast to avoid a rise in homes target." That article quotes the Leader of the Council, who is worried that increases in population and housing needs emanating from London could soon force the Council to accept a higher housing target.

4.3 In light of this concern by councillors and others, the Inspector is requested not to assume that the housing provision for the local plan period is fixed and established as 18,560. It would therefore be better to await the outcome of the local plan examination -as concluded by the Jones Homes Inspector- before accepting that the Council has a five year supply of housing. The article from the Downs Mail is attached as **Appendix 5**.

**5.0 An assessment of individual sites that comprise the Council's supply**

5.1 The Council's supply comprises 6,896 dwellings, of which 4260 are extant permissions, while 2540 are proposed allocations in the submitted draft local plan. In addition to these, the Council has added 96 dwellings on windfall sites.

5.2 Before identifying concerns as to the availability, and deliverability of specific sites, a general point needs to be made about the Council's assessment of capacity of its proposed allocations. The fact of the matter is that the Council has often over-estimated and, in certain cases, substantially over-estimated the capacity of its allocations. The list below shows the difference between to estimated capacity of certain proposed allocations and the capacity of the subsequent planning permission.

West of Hermitage Lane: allocated for 300 units, outline pp for 250 units.

Church Rd, Harrietsham. allocated for 95, outline pp for 80 units.

Howland Rd, Marden: allocated for 55 units, outline pp for 44 units.

The Parsonage, Marden: allocated for 200, outline pp for 144 units.

Stanley Farm, Marden. allocated for 170 units, outline pp for 85 units.

Ulcombe Rd/Millbank, Headcorn: allocated for 240, outline pp for 220 units.

5.3 In addition to these sites where the permission is for considerably less than the proposed allocation, a number of proposed allocations have had their capacities reduced as well from that given in the Regulation 18 draft of the local plan to the current figure in the Housing Topic Paper.

Oakapple Lane, Barming: allocated for 240 units, but now 187 units.

Land south of Sutton Rd: allocated for 930, but now 800 units.

Postley Rd, Tovil: allocated for 80, but now for 62 units.

New Line Academy, Loose: allocated for 220, but now 180 units.

Hen/Duckhurst Farm: allocated for 370, but now 310 units.

Fishers Farm: allocated for 535, but now 400 units.

Linden Farm/Stockett Lane: allocated for 85 but now 74 units.

5.4 It is clear from this that the Council has not just over-estimated the capacity of a few proposed allocations, but rather a considerable number. In addition to this, the reductions in capacity are individually and collectively truly substantial. Indeed, those listed above amount to 684 dwellings. In these circumstances it is difficult for anyone to accept that the Council has submitted an accurate and well-researched forecast of capacity. Indeed, it begs the question as to what further reductions will be made, especially when developers come to submit planning applications on those allocations.

5.5 The proposed allocations will be subject to detailed objections at the local plan examination. It is therefore submitted that it would be unwise to conclude that none of these sites will be deleted or have their capacities further reduced. Indeed, the Feedback column in the Housing Topic Paper shows that the Council has only managed to contact 27 out of the 52 site owners, developers

or their agents. This 52% response rate is hardly a strong basis for comfort in this situation.

5.6 The Inspector is requested to consider the following in relation to just four of the proposed allocations. The Laguna site at Hart Street Maidstone, reference H1 (17) in Appendix C of the Housing Topic Paper, which has a proposed capacity of 76 dwellings, and the American Golf Site, reference H1(14), with its capacity of 60 dwellings, are both brownfield sites that have been available for many years. These have been assessed by a number of house building companies but, to date, none have come forward with viable development proposals. Indeed, there has been a flatted scheme on the Laguna Motors site that is still awaiting determination after five years. Given the nature of the housing market over the past few years, this strongly suggests that these sites will remain in their current use for some considerable time. It would therefore be unwise to assume that they will be developed in the next five years.

5.7 In addition to these two sites, the Inspector needs to be aware that the former Syngenta works site near Yalding (reference RMX1 (4)) has not only been on the market for many years, but is subject to objection by the Environment Agency due to its location in the flood plain. Moreover, the village of Yalding itself has a very extensive history of flooding, none more so than two years ago when the then Prime Minister and other national politicians visited it over the Christmas period in order to view at first hand the flooding. Furthermore, given the previous use of the site as an ICI chemical works, there are deep concerns about ground contamination. Whilst the Council has been cautious about the timing of development here, with only 40 of the total of 200 units forecast for delivery within the five years to 2021, it is submitted that this site should not be assumed to provide any dwellings within that period.

5.8 It has subsequently been announced that two proposed flood defence schemes to protect residents of Yalding, together with Collier Street and

Hunton, will not now proceed. An article from the Downs Mail explaining this in more detail is attached as **Appendix 6**.

5.8 Finally, the County Council as highways authority is now objecting to the allocation of land at the New Line Learning Academy, Loose, on the grounds of unacceptable impact on the A229 Loose Road. Previously, the County Council had appealed against the Borough Council's refusal of its planning application for residential development there. However, in dismissing their appeal the Secretary of State agreed with the Inspector that the scheme would have a severe impact on the highway network in terms of congestion and inconvenience to road users and that neither of these problems would be overcome by conditions. He also found that the scheme's overall quality did not match up to the Framework's aim to create residential environments of genuine high quality and that this matter too could not be overcome by obligations or conditions. It is therefore not surprising that the County Council has objected to the retention of the allocation in the submitted local plan.

## 6.0 Conclusion

6.1 This appeal needs to be considered within the context of the National Planning Policy Framework and, in particular, the presumption in favour of sustainable development. This up to date Additional Statement has identified numerous reasons why the Council's alleged supply of 5.12 years-which equates to a surplus of just 155 dwellings and is therefore very marginal-should be challenged and rejected as an accurate assessment of future housing land supply. The Council's stance is flawed on the basis of its incorrect calculation of supply, the over-estimation of the capacity of sites and the unavailability/viability of certain sites. In addition to these factors, the Council's OAN has yet to be formally assessed. Finally, the existence of a five year supply of land is, in itself, no justification for refusing sustainable development. In these circumstances, the Inspector is requested to reject the Council's contention that it does have (just) a five year supply of housing.

## Appendices

1. Extract from Appeal decision APP/U2235/W/15/3131945, Ham Lane, Lenham.
2. Extract from Appeal decision APP/U2235/W/15/3140679, Highfield, Marden.
3. Extract from Appeal decision APP/U2235/W/16/3146765, Appleacres, Maidstone Road, Sutton Valence.
4. Housing Land Supply Calculation.
5. Article from the Downs Mail, August 2015.
6. Article from the Downs Mail, August 2016.

Neighbourhood Plan, the appeal site carries no formally adopted designation, and no objection is raised by the authority on that basis. In this regard, I am also mindful of the findings of *Stroud v Secretary of State for Communities and Local Government and Gladman Developments Ltd* (2015) EWHC 488 which concurred with the Inspector's view that, in order to be valued, a site had to show some demonstrable physical attribute rather than just popularity. Even so, I also have regard to the Minister of State for Housing and Planning's affirmation by letter dated 27 March 2015 of the importance of the impact of development upon landscapes outside designated areas and which I note post-dated the Stroud decision.

52. The government's Planning Practice Guidance (the Guidance) further advises that, in exercising any of their functions, relevant authorities have a duty to have regard to the purposes of the AONB. I note the Guidance advises that this duty is still relevant in considering development proposals that are situated outside AONB boundaries but which might have an impact on the setting of, and implementation of, the statutory purposes of these protected areas.
53. Taking all the above factors together, however, I conclude that the revised terms of the proposed development would not be harmful to the character and appearance of the open countryside, including the setting of the Kent Downs AONB.

#### **Other Matters**

##### *Five-year housing land supply*

54. The Framework requires the local planning authority to identify and update annually a supply of specific deliverable housing sites sufficient to provide five years' worth of housing relative to its full objectively assessed needs for market and affordable housing
55. The Inquiry heard it was agreed common ground that, as of April 2014, the Council had a housing land supply of 2.1 years and the authority accepted it remained unable to demonstrate a five-year supply. The Council indicated at the Inquiry that, based upon April 2015 data, the supply had increased to 3.3 years relative to an objectively assessed need for some 18,560 dwellings, and that it was hopeful to be able to demonstrate a five-year supply as part of the forthcoming Local Plan examination later this year. Be that as it may, little evidence was placed before the Inquiry regarding the basis for that contention and the fact remained that the Council had not sought to demonstrate a five-year supply.
56. In the absence of a five-year supply of deliverable housing land, it would follow, by virtue of paragraphs 47 and 49 of the Framework, that relevant policies in the development plan for the supply of housing would be considered out-of-date. Further, by virtue of being out-of-date, relevant provisions of the presumption in favour of sustainable development under paragraph 14 of the Framework would also be engaged.
57. Notwithstanding the Council's assertion post-Inquiry that it is now able to demonstrate a five-year housing land supply, as the authority's up-to-date full objectively assessed housing needs have yet to be formally demonstrated, tested and endorsed through the thoroughness and robustness of the local plan

process, I cannot be satisfied that a five-year housing land supply exists. Accordingly, I consider that paragraphs 49 and 14 are engaged.

58. In accordance with the judgment of the Court of Appeal in Suffolk Coastal District Council and Hopkins Homes Limited and the Secretary of State for Communities and Local Government, and Richborough Estates Partnership LLP and Cheshire East Borough Council 2016 (EWCA Civ 168), I find that Policy ENV28, Policy ENV33 and Policy ENV34 of the saved Local Plan, Policy SP 17 of the emerging Local Plan, and the accompanying settlement boundaries, and the Strategy Plan and associated policies of the Neighbourhood Plan all, to varying degrees, create or constrain housing supply and, accordingly, are to be considered out-of-date.
59. Reference was also made by the Parish Council at the Inquiry to possible development of further housing sites as part of the Neighbourhood Plan process. The Parish Council advised the Inquiry that not all relevant discussions were yet in the public domain and such details were not therefore available for testing as part of the appeal.

*Future development strategy for Lenham*

60. Policy SP 5 of the emerging Local Plan identifies the principle of Rural Service Centres (RSC's) as a focus for new housing and employment development, subject to allocation of sites and other criteria. Policy SP 8 more specifically identifies the Lenham Rural Service Centre as where key services will be retained and supported in conjunction with development of 165 new dwellings on two allocated sites, additional to redevelopment of appropriate sites in accordance with Policy SP 5. More generally, Policy H 2(3) identifies Lenham as a broad location for housing growth both east and west of the settlement. It identifies development of up to 1,500 dwellings towards the end of the Local Plan period (post-2026) and the possibility of earlier development if required by the Council's housing land supply position. This is also broadly consistent with Policy LNP1 of the Neighbourhood Plan which seeks to deliver a significant number of dwellings over the Local Plan period.
61. My attention has also been drawn to previous decisions to allocate the appeal site for housing development (previous emerging Local Plan Ref: H1(31)) and to its subsequent deletion. The Committee report to the appeal proposal indicates the reason for deletion related to its impact upon local character. The merits or otherwise of individual allocations remain to be addressed as part of a future Local Plan examination but I acknowledge the evidence regarding the contrasting characteristics of a retained allocation at nearby Tanyard Farm (previous emerging Local Plan Ref: H1(29), now H1(42)). In particular, I note the evidence submitted that the retained site appears to have a more sensitive relationship to the AONB. In the emerging Local Plan, the appeal site had also been identified to have an approximate net capacity for 80 dwellings, Tanyard Farm for some 155 dwellings.

*Coalescence between Lenham and Harrietsham*

62. The Council's reason for refusal does not make specific reference to concerns towards coalescence between the two settlements but at the Inquiry, the authority suggested this was implicit.



include achieving high quality design, taking account of the character of different areas and focusing development in locations which are or can be made sustainable.

### **Other considerations**

18. Having regard to the available surveys and reports the Council's Biodiversity Officer is satisfied that the development would be acceptable subject to a number of conditions. These concern matters such as reptile and great crested newt mitigation strategies, an ecological enhancement plan and an ecological map including provision of a stag beetle habitat. There is no sound basis for me to take a different view.
19. Local residents have raised a number of issues in respect of matters such as the effect in relation to various Listed Buildings and their settings, highway safety and car parking, sewage disposal, overlooking and loss of agricultural land. However, there is no evidence to justify rejecting the proposal in relation to any of these, or any other matter raised, in respect of which the Council has raised no concerns.
20. This is especially so as in relation to exactly the same proposed development, the last appeal was dismissed solely on the technical ground that there was only a draft section 106 agreement. This has now been completed and would appropriately secure the provision of affordable housing to meet local needs.

### **Conclusion**

21. The development would integrate satisfactorily into its surroundings, despite the countryside location, contributing towards meeting the local need for affordable housing. Taking account of all other matters raised, it is determined that the appeal succeeds. Although I have found the development acceptable anyway, the Council's lack of a five year housing land supply further reinforces my view that the development should be permitted. In reaching this decision I have taken account of the views of local residents and other interested parties.

### **Conditions**

22. In addition to those referred to above, a condition requiring the development to be carried out in accordance with the approved plans is necessary for the avoidance of doubt. The facing materials of the new dwellings and design details such as the roof overhangs and windows should be controlled in order to protect the appearance of the new buildings. To protect the appearance of the locality new planting and a subsequent management plan should be required and boundary treatments controlled, as well as ground levels and the floor levels of the new dwellings. To protect the living conditions of adjacent occupiers, as well as the rural character and in the interests of biodiversity, it is necessary to ensure the appropriate provision of external lighting.
23. A condition concerning a Tree Protection Plan and measures for the protection of existing trees during development is necessary in the interest of visual amenity. The removal of permitted development rights for extensions to the dwellings and the laying of hard surfaces is necessary to safeguard the spacious and verdant rural character of the locality and should not be restricted to the rear of the properties. A condition concerning foul and surface water drainage is necessary to ensure that they can be satisfactorily achieved, especially as

11. I give great weight to the conservation of the heritage asset in terms of its setting. However for the reasons given I find that there would be no harm to the setting of the listed building. Furthermore I find that there would be no harm to the character and appearance of the area.
12. The Council acknowledges that it cannot demonstrate a five year housing land supply as required by the National Planning Policy Framework (the Framework) and the parties agree that the supply stands at 3.3 years. In this circumstance, paragraph 49 of the Framework states that policies for the supply of housing should not be considered up-to-date. The Council states that its draft Local Plan is about to be submitted for examination and that this would make provision for the objectively assessed housing need. However, the draft Local Plan carries little weight at this stage. Although the Council may have identified a supply in its draft submission this does not mean that the sites identified are available for development.
13. Paragraph 14 of the Framework states a presumption in favour of sustainable development. Where relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when considered against the policies in the Framework as a whole, or specific policies in the Framework indicate that development should be restricted.
14. Policy ENV28 of the LP restricts development that can take place in the countryside and in as far as it restricts housing development it is a policy for the supply of housing. In the absence of the required housing land supply that policy is out of date. The proposal would not accord with policy ENV28 but because it is out of date I can give only limited weight to this conflict.

*Biodiversity/Ecology*

15. The site contains apple trees ~~that were~~ used as an orchard until the 1980s. There is no evidence before me that any biodiversity or ecology survey has been carried out and the Council has put forward no expert evidence regarding the likelihood of species being present. Neither has any evidence been provided regarding the potential effect on any nearby site identified as being of nature conservation value.
16. Given that any necessary mitigation measures could be carried out following a suitable survey which could be secured by a condition I conclude that there is insufficient evidence that the proposal would harm biodiversity or ecology.

*Other Matters*

17. An interested party has raised concern about additional traffic on the A274 that would result from this and other planned developments in the area. The Highway Authority considers that the road has sufficient capacity to accommodate the traffic that would be generated by the proposal and I see no reason to differ.
18. The proposed dwellings would be sited to avoid overlooking or any other harmful effect in terms of the living conditions of adjacent occupants.
19. Kent County Council requested financial contributions towards education and library provision ~~to be secured by a planning obligation~~. However the Planning

### MBC HOUSING LAND SUPPLY

Requirement 2011-2021 (928 x 10)	9,280
Completions 2011-2016	2,860
Residual requirement 2016-2021 (9,280 - 2,860)	6,420
20% buffer (6,420 x 20%)	1,284
Total requirements 2016-2021	7,704
Total land supply	6,896
Shortfall	808

Annual requirement  $7,704 \div 5 = 1,541$

Actual supply  $6,896 \div 1,541 = 4.48$  YEARS

# Maidstone Town Edition Downs Mail

Maidstone & Malling's  
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August 2015 No. 220

## 'Let's act fast to avoid a rise in homes target'

THE borough's housing target could swell beyond the current 18,560 if the local plan is not adopted soon, warns the leader of Maidstone Council.

Lib Dem Cllr Fran Wilson campaigned to reduce the controversial housing target (initially 19,600) - between 2011 and 2031 - while in opposition to the ruling Conservatives.

But less than three months after regaining the role of council leader eight years since she was in charge, Cllr Wilson has admitted that she has "failed" to reduce the target.

Furthermore, both the Lib Dems and Conservatives have warned that London's rapidly increasing population - up by 100,000 every year since 2008 - could force the borough to accept an even higher target.

Cllr Wilson told full council: "Everything has been tried to reduce our housing need assessment. No one worked harder than Cllr Tony Harwood [Lib Dem planning

spokesman] and myself over the past 18 months to achieve this and we've failed.

"The leader of Kent County Council [Cllr Paul Carter] did all he could to find a way and he failed.

"Kalc [Kent Association of Local Councils] provided a further report and MBC, in the interests of transparency, sent that to yet another independent consultant. His verdict was that it would not stand up to the inspector's scrutiny.

"It would now be advisable to accept the 18,560 housing need assessment and to understand that as yet no utility or highways authority have provided any evidence to enable us to substantially convert that figure into a lower housing target.

"There is a well-substantiated re-

port in the independent magazine for housing professionals that indicates that the latest revision in population figures puts existing housing data in question and that calculations on which local authorities have based their figures for housing need have probably underestimated population growth.

"I beg everybody to work together to actually resolve our local plan."

Conservative Cllr David Burton, chairman of the strategic planning committee, said: "The impact of migration to and from London will have an impact on the South East.

"There is some uncertainty about if and when it will come to fruition. Delay in the local plan increases the risk that housing numbers need to increase further." →8

### News

#### Involve replaces VAM

MEMBERS of Voluntary Action Maidstone voted overwhelmingly to change the charity's name to Involve. →10

#### Show crowd increase

A TOTAL of 77,000 visitors attended the Kent Show - up 2,000 from 2014. →12

#### Gridlock forecast

TRAFFIC in the borough may rise by a third by 2031 - even if a new link road is built. →14

#### No to GP weekends

A PROPOSED six-month pilot to open doctor surgeries for seven days was scrapped. →30

#### Crime Reports

→30

WINDOWS and seats of a digger were damaged in Oakwood Park.

#### Comment

→32-33

NEIGHBOURING borough councils should work to address traffic chaos, according to a writer.

#### Parish Councils

→33

NETTLES were causing complaints in Barming; dogs were banned from Brooks Field, Loose.

#### Obituaries

→42-43

TRIBUTES were paid to Alistair Black (79), who was a Maidstone borough councillor for Font ward.



#### Rubbish pick-ups

BULKY refuse collections now include Saturdays. For information see the Maidstone Council-sponsored 12-page Borough Update in the centre pages.

## Classic fun at castle

LEEDS Castle was a sea of Union Jacks as thousands enjoyed the yearly classical concert.

A sunny afternoon greeted swing from The Definitive Rat Pack and a programme from the Royal Philharmonic Orchestra, conducted by John Rigby. After a demonstration from a Spitfire and TV dancers James and Ola Jordan, who live in Kings Hill, the evening concluded with cannons and fireworks.



## Fruit fly threat to our cherries

THIS year's cherry harvest is under attack from Asian fruit flies.

Growers in Yalding and Loose have already reported losing cherries to the bug, which enjoys the heat and thrives when temperatures top 20C.

The threat to this year's harvest is just as real for commercial growers as it is to gardeners, with the pest partial to not only cherries, but plums and other soft fruit.

Unlike most fruit flies, which attack fallen and over-ripe fruit, the female spotted wing drosophila (SWD) lays its eggs under the skin of healthy fruit. Larvae eat the fruit from inside, making them soft and unmarketable.

Malcolm Marden, manager at Worley's Court Lodge Farm in Kenward Road, Yalding, says the bug, first recorded in the UK in 2012, first reared its head on his farm last year. →23

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SofC Appendix 4 - APPENDIX 5  
1 of 2

# Tories welcome leader's u-turn

THE Conservative group says it feels vindicated by Cllr Fran Wilson's decision to endorse the 18,560 housing target between 2011 and 2031.

In the two years since the figure was set by the Conservative administration as a result of a study by consultant GL Hearn, Cllr Wilson and her opposition Lib Dems had called for a much lower figure.

Cllr Tony Harwood, the Lib Dem planning spokesman, had earlier said that the target could be reduced to 10,950 by showing evidence that 18,560 was a figure derived from an upward blip in new developments - many on brownfield sites - between 2001 and 2011.

Cllr Wilson, who became the leader of a hung Maidstone Council in May, told the Downs Mail in the run-up to this year's elections that she would work to reduce the target.

She had said: "Maidstone's people put great value on our built heritage and countryside yet, in the rush to pack in homes, we are witnessing accelerating destruction of these wonderful assets - a recipe for disaster when one understands the vital contribution tourism makes to the economic viability of the borough.

"We promise to halt this loss and

protect the open spaces residents hold most dear. It will not be easy. However, the Lib Dems believe it is perfectly possible to achieve this and provide the affordable homes so desperately needed for an expanding population."

However, she has now admitted defeat, saying she has failed to bring down the target, which has buoyed the Conservatives.

Cllr Annabelle Blackmore, leader of the Conservative group and Cllr Wilson's predecessor as leader of the council, said: "It is tonic to my ears that your group are now behind the objectively assessed need - the figure which you have queried for so long. The local plan was put in jeopardy because of the delays being caused by people playing politics.

"It is a vital document that we have to work on. You have played politics for so long so I am pleased you are back onside saying 'let's work together'.

"To say we must work more closely together is strange when we did that anyway."

Cllr Wilson responded in the full council meeting by arguing that the

previous cabinet system, reverting to committees in May, meant that the Conservatives were in control of the process and her group had no significant influence.

She added: "We have practically used every brownfield site. We believe that there is little room for manoeuvre to up our figures in High Street ward.

"This is not an argument about town versus rural - this is a nightmare for all of us. If anyone can come up with a solution about where we can put the homes then we will have to do so.

"We will do all we can to find brownfield sites but I think we are on quite a sticky wicket."

Cllr Harwood had told the Downs Mail in March 2014: "We were successful in delivering regeneration in sustainable locations and a good yield of affordable housing in the first decade of the millennium.

"However, this was clearly a blip and must not set a precedent for the future. Our greenfield sites and villages are not up for grabs in the way that derelict urban sites were."

## Capital 'could add pressure'

*Continued from page one*

Cllr Harwood said: "There is a strong actual and perceived relationship with the borough and the capital. Our proximity just outside the Metropolitan Green Belt brings dangers, and there will be pressure to use Maidstone as a dormitory for an expanding city.

"The local plan is dictated by others outside Maidstone - it may be central Government and other authorities.

"If we do not move quickly and get a plan in place with policies we will be very vulnerable for housing figures even more unsustainable than the figures we have now."

## Plan target: spring 2017

A COUNCIL spokesman said: "In the coming weeks officers will be presenting reports to the strategic planning sustainability and transport committee ahead of a four-week public consultation in the autumn on key policy and site changes.

"Thereafter, the whole plan will be pulled back together, picking up previously agreed and 'banked' sites and policies as well as those that are the subject of the autumn consultation.

"The revised 'publication' version of the plan will then go for a further stage of consultation focused on its soundness, (during February/March) before it is submitted to the Secretary of State in late spring 2016.

"The recognised timescales post-submission suggest approximately 12 further months until adoption (to allow for examination by an inspector) suggesting adoption could be in the spring of 2017."

## Petition over Mote charges

A PETITION has been launched following Maidstone Council's decision to introduce car parking charges at Mote Park.

The decision means the council could raise £171,000 every year towards the upkeep of the park, which receives about a million visitors a year and has been voted the second best park in Britain.

Visitors will be charged £1 for up to six hours or £12 for longer, but the charges will not apply before 10am, to allow joggers and dog walkers to enjoy the park from 8am.

Council leader Cllr Fran Wilson opposed the charges, saying they might encourage visitors to park in neighbouring streets.

Other members were concerned the charges could be the "thin end of the wedge" and increase over time.

The council wants to ensure the park retains its Green Flag status and wants to improve the park. It would also like to appoint a permanent parks officer.

Cllr John Perry said he believed the imposition of modest parking charges would help the park retain its status as a visitor attraction.

Resident Bianca May began the petition opposing the charges, which attracted more than 750 signatures in the first five days.

## Discounts for park visitors



The Mote Park Fellowship, with Maidstone Council employees, receiving the Green Flag Award in 2014.

A MEMBERSHIP scheme has been launched for supporters of Mote Park, offering benefits and discounts to regular visitors.

The Mote Park Fellowship is the group of volunteers that maintains the park with Maidstone Council.

Its new website - [www.moteparkfellowship.org.uk](http://www.moteparkfellowship.org.uk) - offers information on the park's history, wildlife and

events, and invites visitors to join the group.

For a £20 annual fee, used to support projects in the park, members receive discounts including 20% off prices in the café, 10% off in the restaurant at Mote House, 50% off courses at the lake watersports centre and free tickets for events throughout the year.

## Call to repay Operation Stack costs

KENT Police and Crime Commissioner Ann Barnes has called for the Government to reimburse the county's police force for the full costs of policing Operation Stack.

In just three weeks - during which Operation Stack was implemented four times - the cost to the force exceeded £700,000 and on average, at peak demand, there were 112 members of Kent Police staff working on the operation every 24 hours.

In the letter, sent to transport minister MP Patrick McLoughlin, Mrs Barnes said: "Operation Stack is putting immense pressure on the community and the police here in Kent.

"This is drawing several dozen officers away from their policing duties in the county each day. It comes at a significant cost to the police budget and the health and wellbeing of our officers, who have been magnificent in rising to this difficult and

continuing challenge.

"This is a predictable and reoccurring problem on the national strategic road network and for which Highways England, an agency of your department, is the lead organisation.

"I am asking you to provide a permanent and comprehensive solution which provides full reimbursement for the taxpayers of Kent."

# Maidstone South Edition Downs Mail

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August 2016 No. 292

## Flood defence blow leaves villages at risk

THE plug has been pulled on two flood defence schemes proposed to protect the people of Yalding, Collier Street and Hunton.

As revealed in the Downs Mail last month, the Environment Agency's modelling for three schemes, at a total cost of £15m, fell well short of locals' expectations.

Kent County Council (KCC) will put in £2.5m to the project instead of its promised £17.5m.

MP Helen Grant said: "I was hugely disappointed to learn that this approach has been shown to fall seriously short of expectation."

The EA originally said a combination of three flood storage areas (FSAs) would be the best approach.

But detailed computer modelling work indicates that Leigh Barrier improvements will have very limited benefit for the residents of Yalding, Laddingford and Collier Street while

the EA says the FSAs on the Beult and Teise are unlikely to offer "significant benefit".

It has now recommended that the most beneficial approach for homes in and around Yalding would be through Property Level Resilience (PLR) applied to individual properties with an EA consultation shortly.

Under an existing DEFRA scheme PLR grants of £5,500 are available to certain properties. These could fund flood barriers for homes, air-brick/vent covers and non-return valves which can be fitted to drains to prevent floodwater backing up.

Several homeowners in Yalding have taken advantage of the scheme, but were relying on the flood defence project for further protection.

The EA's feasibility study indicated that a significant number of properties in Tonbridge and Fildersborough would be protected by Leigh Barrier improvements and bids for funding were to be progressed accordingly.

The EA said 32 properties would have been protected on the Beult at a cost of £9m, and 96 properties on the Teise at a cost of £7m.

The Government will provide £11m towards Leigh Barrier improvements, with a further £2.5m from KCC and £0.5m from Tonbridge & Malling council, together with private sector contributions.

The scheme is also reliant on a bid to the South East Local Enterprise Partnership (LEP) for £4.5million.

### News

#### Truck cab to pulpit

A LORRY driver is soon to take over as the new, full-time vicar for Yalding, Laddingford and Collier Street. →3

#### Grafty plan approval

LUXURY homes are to be built on the site of the former Grafty garden centre. →12

#### Horse cons are jailed

THREE fraudsters who sold sick horses for profit have been jailed. →14

#### Sorry to Headcorn

PARISH council said sorry for removing the village's hanging baskets. →14

#### Ramblin' Man uproar

MUSIC festival organisers faced a chorus of complaint about excessive noise. →22

#### Kent show success

MORE than 80,000 visitors flocked to the county show at Detling. →28

Obituaries →30

Comment →32-33

Crime Reports →33

GOLF clubs were stolen from a house in Boughton Monchelsea.



**MAIDSTONE**  
Borough Council  
Market successes

THE new Farmers' Market has proved to be a success with dozens of stallholders taking part in Jubilee Square. For more, see the Maidstone Council-sponsored 12-page Borough Update inside.

### Dates are all adding up

NEW mum Sara Mollison reckons the addition to her family is already living by numbers.

There has been a series of "spooky" coincidences where many female relatives have birth months which correspond to the birth date.

For instance, baby Alexa Mollison, who was born at Papworth Hospital, Tunbridge Wells, two weeks late, arrived in the world on June 6 (6/6). Perhaps there is nothing magical there, but Sara was born on October 10 (10/10) - as was her mother, Mary Hillgrove.

And there are more besides.

Sara, who is on maternity leave from her job as a maths teacher at Valley Park School, in Maidstone, said: "She kept us waiting, but it turns out she wanted to impress her mathematical mama and be like all the other ladies in the family."

Sara is pictured holding baby Alexa, with mother-in-law Jackie and sister-in-law Sarah. See the full story on page 6.





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### Bank ram raid

RAM raiders attacked the NatWest bank in Staplehurst, ripping out much of the front of the building to get at the cash machines.

These were then loaded onto another vehicle and taken away. →16



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→ of C Appendix 4 - APPENDIX 6.

- 3.90. The policies contained within the now superseded Local Plans have been successful in restraining harmful development in the countryside whilst encouraging diversification to sustain the rural economy.
- 3.91. The following policies in this section of the Plan, together with other policies in this Plan such as policies ENV5 and ENV6 which deal with landscaping, and Policy T23 in the Transportation Chapter, seek to build upon the Borough Council's existing commitments, by protecting and enhancing the character and local distinctiveness of the Borough's rural environment, and ensuring that any development necessary to sustain the rural economy is accommodated in such a way as not to harm the countryside.

**POLICY ENV28 THE COUNTRYSIDE IS DEFINED AS ALL THOSE PARTS OF THE PLAN AREA NOT WITHIN THE DEVELOPMENT BOUNDARIES SHOWN ON THE PROPOSALS MAP.**

**IN THE COUNTRYSIDE PLANNING PERMISSION WILL NOT BE GIVEN FOR DEVELOPMENT WHICH HARMS THE CHARACTER AND APPEARANCE OF THE AREA OR THE AMENITIES OF SURROUNDING OCCUPIERS, AND DEVELOPMENT WILL BE CONFINED TO:**

- (1) THAT WHICH IS REASONABLY NECESSARY FOR THE PURPOSES OF AGRICULTURE AND FORESTRY; OR**
- (2) THE WINNING OF MINERALS; OR**
- (3) OPEN AIR RECREATION AND ANCILLARY BUILDINGS PROVIDING OPERATIONAL USES ONLY; OR**
- (4) THE PROVISION OF PUBLIC OR INSTITUTIONAL USES FOR WHICH A RURAL LOCATION IS JUSTIFIED; OR**
- (5) SUCH OTHER EXCEPTIONS AS INDICATED BY POLICIES ELSEWHERE IN THIS PLAN.**

**PROPOSALS SHOULD INCLUDE MEASURES FOR HABITAT RESTORATION AND CREATION TO ENSURE THAT THERE IS NO NET LOSS OF WILDLIFE RESOURCES.**

### **Environmental Impact Assessments**

- 3.92. Department of the Environment Circular 15/88 identifies development projects which will require an environmental assessment if they are 'likely to have significant effects on the environment' by virtue of factors such as their nature, size or location. The three main types of case identified are:
- (i) major projects which are of more than local importance;**
  - (ii) projects on a smaller scale (occasionally) which are proposed for particularly sensitive or vulnerable locations; and**
  - (iii) projects with unusually complex and potentially adverse environmental effects (small number), where expert and detailed analysis of those effects would be desirable and would be relevant to the issue of the principle of whether or not the development should be permitted.**
- 3.93. The Circular emphasises that the basic test of the need for environmental assessment in a particular case is the likelihood of 'significant' environmental effects.

Planning Committee Report  
16 October 2014

*"This is a substantial development and the usual EH concerns for such a proposal exist here. There is a desk top study submitted, GEA Desk Study and Ground Investigation Report J13245 October 2013. This is primarily a geotechnical report but it does have some references to contamination; four samples were taken in trial pits and elevated PAH, namely benzo-a-pyrene. It suggests that further work would be required – I agree. Therefore a condition should be imposed highlighting the work yet to be done, but the first part of the condition can be deemed to have been completed.*

*Despite its size, the location of the proposed development is such that noise will not be an issue, though there is likely to be an addition to local air pollution from the number of extra residences and vehicles. Interestingly the accompanying transport plan raises no objections."*

6.18 **Sport England:** raise no objection to the proposal subject to the safeguarding of the provision of an alternative facility by way of the imposition of a condition preventing occupation of any dwelling prior to the replacement facility granted outline planning permission under MA/13/0358 being built out, functional and available for public use.

6.19 **Kent Police:** raise no objection to the proposal subject to the imposition of a condition requiring the development to incorporate measures to prevent crime in accordance with "Secured By Design".

6.20 **Network Rail:** raise no objection to the proposal.

6.21 **Southern Gas Networks:** raise no objection to the proposal, but draw attention to the presence of a gas main within the vicinity of the site.

## 7.0 APPRAISAL

### Principle of Development

7.01 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that all planning applications must be determined in accordance with the Development Plan unless other material considerations indicate otherwise. In this case the Development Plan comprises the Maidstone Borough-Wide Local Plan 2000, and as such the starting point for consideration of the proposal is policy ENV28 which relates to development within the open countryside. The policy states that:

*"In the countryside planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers, and development will be confined to:*

- (1) that which is reasonably necessary for the purposes of agriculture and forestry; or*
- (2) the winning of minerals; or*
- (3) open air recreation and ancillary buildings providing operational uses only; or*
- (4) the provision of public or institutional uses for which a rural location is justified; or*
- (5) such other exceptions as indicated by policies elsewhere in this plan."*

7.02 In this case, none of the exceptions against the general policy of restraint apply, and therefore the proposal represents a departure from the Development Plan. It then falls to be considered firstly whether there are any material considerations which indicate that a decision not in accordance with the Development Plan is justified in the circumstances of this case, and (if so) secondly whether a grant of planning permission would result in unacceptable harm, such that notwithstanding any material justification for a decision contrary to the Development Plan, the proposal is unacceptable.



7.03 The key material consideration outside of the Development Plan in the determination of applications for residential development in the open countryside is national planning policy as set out in the National Planning Policy Framework 2012 (NPPF) and the Council's position in respect of a five year housing land supply.

7.04 Paragraph 47 of the NPPF states that Councils should;

*"identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land;"*

7.05 Relevant to this, the NPPF requires that local authorities have a clear understanding of housing needs in their area, and as such they should prepare a Strategic Housing Market Assessment (SHMA) to assess their full needs; working with neighbouring authorities where housing market areas cross administrative boundaries. Maidstone has carried this out with Ashford Borough Council and Tonbridge and Malling Borough Council. The SHMA (2014) confirms the objectively assessed housing need for the borough over the plan period 2011 to 2031 as 19,600 dwellings (980 dwellings per annum). This was agreed by Cabinet on 27th January 2014 and on 24th February 2014 to be included within the draft Local Plan (to be sent out for public consultation).

7.06 In April 2013 when most recently calculated, the Council had a two year supply of housing assessed against the objectively assessed housing need of 19,600 dwellings, which is the figure against which the supply must be assessed. Even when considered in light of housing permissions granted since that date, the Council remains in the position of being unable to demonstrate a 5 year housing land supply.

7.07 This lack of a five year supply is a significant matter and at paragraph 49 of the NPPF it is stated that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant policies for the supply of housing (such as ENV28 which seeks to restrict housing outside of settlements) should not be considered up-to-date if a five year supply cannot be demonstrated. This position has been reflected in recent appeal decisions issued since the publication of the NPPF. In this policy context, the presumption in favour of sustainable development identified in paragraph 14 of the NPPF means that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits of the application, when assessed against the policies of the NPPF as a whole.

7.08 In respect of the circumstances of the specifics of this case, the proposal site is located adjacent to the settlement boundary of Marden, identified as an RSC in the draft Local Plan under draft policy SP3, providing a wide range of key services including a primary school, medical centre, library and other community facilities including a village hall, as well as employment opportunities and good public transport links, including by rail, to larger employment and retail centres.

7.09 RSCs are considered the most sustainable settlements in Maidstone's settlement hierarchy, as set out in the draft Local Plan, outside of the town centre and urban area by virtue of their accessibility, potential for growth and role as a service centre of surrounding areas. The draft Local Plan states that, "Rural service centres play a key part in the

economic and social fabric of the borough and contribute towards its character and built form. They act as a focal point for trade and services by providing a concentration of public transport networks, employment opportunities and community facilities that minimise car journeys."

7.10 In this context, it is considered that the location of the site adjacent to the RSC of Marden is sustainable in the terms of the NPPF and draft Local Plan.

7.11 This is recognised in the designation of the application site as a housing allocation within the emerging Local Plan for 125 dwellings under the scope of policy H1(35), subject to the following detailed criteria:

- *Retain and enhance hedges and trees along the southern and eastern boundaries of the site in order to screen new housing from the adjacent open countryside; and*
- *Access will be taken from either Albion Road or Stanley Road, subject to agreement with the Highways Authority; and*
- *Pedestrian and cycle access will be provided, to ensure good links to existing residential areas and the village centre; and*
- *Development will be subject to the results and recommendations of a phase one ecological survey; and*
- *Replacement sports facilities will be provided, as agreed by the Borough Council, before development of this site commences; and*
- *Provision of publicly accessible open space as proven necessary, and/or contributions; and*
- *Appropriate contributions towards community infrastructure will be provided, where proven necessary; and*
- *Complimentary improvements to public footpath KM276, connecting the site to Howland Road; and*
- *Approximate development density of 30 dwellings per hectare.*

7.12 The Council is not in a position to demonstrate a five year housing land supply, and as such normal restraints on volume residential development in the open countryside do not currently apply as the adopted Local Plan is considered out of date, in accordance with central government planning policy as set out in the NPPF and discussed in detail above. In such circumstances the NPPF advises that when planning for development through the Local Plan process and the determination of planning applications, the focus should be on existing service centres and on land within or adjoining existing settlements. The development of this site is therefore in accord with the objectives of the NPPF. The application is also supported by the allocation of the site for housing in emerging Local Plan policy H1(35), notwithstanding widespread objection to this by local residents.

7.13 Furthermore, the bringing forward of development on this sustainable site adjacent to an RSC, identified as being suitable for residential development in the emerging Local Plan, will of itself contribute towards the provision of housing and therefore help in meeting the

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generate additional users for the surrounding footpath network, they would not be the only users of the footpath, given that there are existing users of the footpath and other permitted and current planning applications for development in the area which could all potentially generate additional users for the local footpath network as a whole. With this in mind, I do not consider that the request accords with policy CF1 and passes the S106 tests.

16.11 The contributions towards highway improvements have been outlined in paragraphs 12.05 to 12.8 above and are deemed to meet the required tests.

17 **Other Matters**

17.1 The applicants have submitted a Sustainable Construction and Renewable Energy Assessment in support of their proposal. This states that the development seeks to achieve Code for Sustainable Homes Level 4. Sustainable development is a key principle of the NPPF and it is considered appropriate to secure this via a planning condition.

17.2 Other matters raised and not considered above is that this is just one of numerous planning applications in the area. Each application for development in the local area will be considered on its own merits and if any are recommended for approval this would be subject to suitable contributions or on site provision of facilities to make the development acceptable in planning terms.

18 **Conclusion**

18.1 The proposed development is contrary to policy ENV28 in that it represents housing development outside a settlement boundary in the Local Plan and would be located on grade 3a agricultural land. However in the absence of a five year supply of housing the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development and policies such as ENV28 cannot form grounds to object in principle.

18.2 The NPPF advises that when planning for development i.e. through the Local Plan process, the focus should be on existing service centres and on land within or adjoining existing settlements. The site lies immediately adjacent to the urban boundary of Maidstone. This area of Maidstone has good access to the M20, A20 and the A26 with good local services including a mix of health, retail, employment and education facilities within walking distance and good access to public transport.

18.3 As such, the application site is in a sustainable location, immediately adjoins the existing settlement, close to facilities, with good public transport links and is considered an appropriate location in principle for additional housing. It is an allocation in the emerging Local Plan which has been out for its Regulation 18 consultation.

appellants. For the avoidance of doubt I have determined the appeal with regard to the unilateral undertaking submitted by the appellants.

6. The sole area of dispute therefore relates to the first reason for refusal and I have framed the main issue accordingly.

#### **Application for costs**

7. At the Hearing an application for costs was made by Messrs D and B Russell against Maidstone Borough Council. This application is the subject of a separate Decision.

#### **Main Issue**

8. The main issue in the appeal is the effect of the proposed development on the character and appearance of the area having regard to national and development plan policy in respect of development in the countryside and the location of new housing.

#### **Reasons**

9. The appeal site is bounded by the London to Ashford railway line to the north, and to the east by Headcorn Road. The northern part of the site is occupied by a roofing business, with an access road shared with Knights Asphalt, an adjacent commercial premises. An existing dwelling, Amberly, is set in a generous curtilage within the south east corner of the site, with a separate vehicular access. To the south and west are open fields, with some dispersed detached dwellings further to the south at Leadingcross Green. About half of the site has been previously developed. Ground level differ considerably across the site, with the northern part set below the level of Headcorn Road, whilst the south east corner is at road level.
10. The site is outside the defined settlement boundary of Lenham. The parties agree that the Council cannot demonstrate a 5 year deliverable housing supply, and the Council concedes that that part of Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 (LP), which seeks to restrict housing development in the countryside, is out of date for the purposes of paragraph 49 of the National Planning Policy Framework (the Framework). Accordingly, paragraph 14 of the Framework states that there should be a presumption in favour of sustainable development, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as whole.
11. Notwithstanding this, the Council maintains that the proposal would be contrary to LP Policy ENV28, insofar as it seeks to prevent development in the countryside that would harm the character and appearance of the area. However this policy pre-dates the publication of the Framework, which does not seek to protect the countryside for its own sake. The site does not lie within any designated landscape, and thus is not valued in the context of paragraph 109 of the National Planning Policy Framework, which seeks to protect and enhance valued landscapes, or paragraph 115, which requires the decision maker to give great weight to conserving the landscape and scenic beauty of designated landscapes. Consequently LP Policy ENV28, as far as it relates to protection of the countryside, is inconsistent with the Framework, and I have afforded it little weight in reaching my decision.

## **APPENDIX 3**



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## Appeal Decision

Inquiry held on 27 and 28 April 2016

Site visit made on 29 April 2016

**by Peter Rose BA MRTPI DMS MCI**

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

**Decision date: 24 June 2016**

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**Appeal Ref: APP/U2235/W/15/3131945**

**Land west of Ham Lane, Ham Lane, Lenham, Maidstone ME17 2PZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Jones Homes against the decision of Maidstone Borough Council.
  - The application Ref: 14/502973/FULL, dated 21 August 2014, was refused by notice dated 12 March 2015.
  - The development proposed is erection of 82 new residential dwellings together with access onto Ham Lane, internal roads, parking, landscaping and ancillary works on land at Ham Lane.
- 

### Decision

1. The appeal is allowed and outline planning permission is granted for the erection of up to 82 new residential dwellings together with access onto Ham Lane, internal roads, parking, landscaping and ancillary works on land at Ham Lane in accordance with the amended terms of application Ref: 14/502973/FULL, dated 21 August 2014, as set out below, and subject to the conditions set out in the attached schedule.

### Procedural Matters

#### *Matters raised at the Inquiry*

2. The application determined by the Council is a full and detailed submission for 82 dwellings and related works, and the appellant remains content for the appeal to be considered on that basis. Prior to the Inquiry, however, the appellant requested two possible alternative bases for consideration of the appeal.
  3. The appellant's preferred approach was to replace the original appeal scheme with an outline application for 67 dwellings. A similar application had been previously submitted to the Council but was withdrawn prior to the Inquiry and without determination. I indicated my concerns at the Inquiry that I did not consider this to be an appropriate way forward for this appeal. In particular, that application is not before the Secretary of State as an appeal, the proposal has not been publicised as an appeal, and full particulars of that scheme, including its history, are not before me. I also noted the concerns of third parties and of the Council regarding the lateness of the suggestion relative to the timing of the Inquiry. The proposal had also not been formally placed before the relevant decision-making body of the Council and which would have included a further opportunity for consideration of third party representations.
-

4. The appellant's second suggestion was to consider the existing appeal proposal not as a full application but as an application for outline planning permission for up to 82 dwellings. Part of the rationale would be to afford me greater flexibility as part of my decision should I conclude that aspects of the detailed scheme may be unacceptable. The description of the development would remain substantively the same as considered by the Council and publicised for the purposes of the appeal. The key differences would be that the status of the submitted details would change from a formal submission for approval to illustrative, and the description of 'up to' 82 dwellings would allow for a lesser number of units should that be appropriate in light of the objections previously raised and future consideration of reserved matters. Indeed, the appellant indicated, in any case, a wish to proceed with a less intensive development of the site and the amendment would accommodate that possibility without recourse to a new application and accompanying delay.
5. By reducing the level of detail for formal approval and by deferring its consideration to future reserved matters with accompanying statutory publicity at that time, I am satisfied that no interests would be prejudiced. This second possibility was also raised with the Council in March and no objection has been raised by the authority, and I also heard the views of third parties who elected to speak at the Inquiry. I find this suggestion would also be consistent with Annex M of The Planning Inspectorate's Procedural Guide Planning Appeals - England 23 March 2016 and with the principles set out in *Bernard Wheatcroft Ltd v SSE (JPL, 1982, p37)*.
6. At the Inquiry, I offered an interim ruling that I was minded to consider the application on the outline basis as proposed, but wished to defer my decision until after I had heard and considered all the evidence and could be satisfied regarding any possible implications arising, but particularly to ensure that no interests would be prejudiced in this regard.
7. Having now considered all matters, I confirm that I find the appellant's second alternative approach to be both reasonable and appropriate. Accordingly, I propose to consider this appeal on the basis of an outline application for the erection of up to 82 new residential dwellings together with access onto Ham Lane, internal roads, parking, landscaping and ancillary works on land at Ham Lane and with all matters reserved except access. All drawings and other particulars accompanying the application are treated as illustrative, except for drawing Ref: 3605/2.00/2B, to the extent that it defines the site boundary in red, and drawing Ref: 3605/2.10N, to the extent that it defines details of proposed access. Both these drawings are submitted for approval on the limited terms indicated, but all other details would remain for further formal consideration as reserved matters. A further drawing Ref: 3605/2.00/2 also remains relevant for reference purposes.
8. The Inquiry was adjourned on 28 April 2016 for further actions including, amongst other matters, re-working of detailed wording of a tabled draft Unilateral Undertaking. A completed Unilateral Undertaking dated 12 May 2016 has since been submitted and which has been seen by the authority. The Inquiry was formally closed in writing on 17 May 2016.
9. At the Inquiry, there was a degree of uncertainty regarding the precise boundary of the adjacent Area of Outstanding Natural Beauty. This was subsequently addressed by the appellant's email dated 6 May 2016. I note,

however, that historic records indicate a more detailed definition of the AONB boundary in specific regard to the public footpath on the northern side of the A20 is not available.

10. I consider the appeal on the above basis.

*Further matter raised post-Inquiry*

11. At the Inquiry, it was agreed common ground between the parties that the Council was unable to demonstrate a five-year housing land supply. The Council's witness indicated that he hoped the authority would be able to demonstrate a five-year supply later in the year at the point at which the authority's new draft local plan is presented for examination. Nevertheless, the Council's evidence indicated this situation was not likely to change in the near future, and no detailed evidence was offered.
12. On 23 May 2016, after the Inquiry had closed, the Council informed the Planning Inspectorate that its draft local plan had been submitted for examination on 20 May and that the Council now considers it has a five-year housing land supply. The Council referred to an accompanying Maidstone Borough Local Plan Housing Topic Paper 2016 in evidence. The Council has advised that it considers its new position to have connotations for paragraphs 14 and 49 of the National Planning Policy Framework but confirmed it did not consider it necessary to re-open the Public Inquiry and is not requesting that takes place.
13. The observations of both the main parties have been sought in relation to this new information, and I have also received further separate representations from Lenham Parish Council in support of the Council's new position.
14. The appellant has raised questions regarding the substance and merits of the new evidence submitted and has requested that, should I conclude this evidence to have anything other than very limited weight or am minded to agree that a five-year supply has been demonstrated, the Inquiry should then be re-opened in order to allow for this new evidence to be properly tested. The appellant has also indicated a proposed application for costs against the authority for unreasonable behaviour in that event.
15. Given the positions taken by the main parties as recorded above, and the matters on which my decision in this appeal turns as explained below, I have concluded that there was no basis to justify re-opening the Inquiry.

**Main Issues**

16. The main issues are matters of character and appearance, in particular:
  - (a) whether the proposed scheme would constitute good design with specific regard to its layout, landscaping and scale, and;
  - (b) whether the proposed scheme would thereby be harmful to the open countryside, including to the setting of the Kent Downs Area of Outstanding Natural Beauty (the AONB).



## Reasons

### *Proposed layout, landscaping and scale*

17. The appeal site comprises an enclosed field some three hectares in area and is located to the west of Ham Lane and to the south of Ashford Road (the A20). To the north-east of the site on the opposite side of the A20 is the Kent Downs AONB. The AONB is separated by Pilgrims Way from a designated Special Landscape Area (the SLA) which directly overlooks the appeal site from the north.
18. Whilst land to the north, west and south is predominantly open, and playingfields also lie to the east of Ham Lane, Ham Lane itself is of mixed use and character and accommodates built development, including a number of post-war housing developments. These include The Cloisters, which overlooks the appeal site from the east, and Westwood Grange, which overlooks the site from the south. Ham Lane also serves a storage and distribution operation and further housing lies to the east around Cherry Close adjacent to Swadlands School. To the west of the site is a large detached building at The Grange, and an area of semi-natural ancient woodland, Dickley Wood, lies beyond.
19. The appeal site has no specific allocation in the Council's development plan, it lies outside the settlement boundary of Lenham, and the Council confirmed it had no specific proposals for allocation.
20. My assessment is that the site does form part of the open countryside and, notwithstanding the intervening SLA, has a visual and physical relationship to the AONB by virtue of its proximity. The site also has a similar relationship to other developments in Ham Lane and, given its immediate proximity, the location is undoubtedly edge-of-settlement.
21. Whilst the site shares some physical similarity with the surrounding countryside, the wider character and appearance of this part of Ham Lane and of adjacent sites display little overall distinctiveness. Built development comprises various piecemeal schemes of contrasting styles which I do not consider contribute to any particular physical uniformity or gateway impression relative to the surroundings. By virtue of the peripheral location adjacent to post-war housing, I also do not consider the principle of developing the site to have specific adverse implications for the important and more historic forms and character of Lenham elsewhere.
22. The site has significant exposure in views from the south and west, but such views are predominantly from private land. To the north, however, the land rises and contains a number of Public Rights of Way (PRW's), including Pilgrims Way, and the nationally important North Downs Way, and from which at various points the site is clearly visible.
23. The illustrative drawings show a significant expanse of residential development across the site, excepting a narrower strip of land to the west shown on drawing Ref: 3605/2.00/2 which would remain open and be landscaped. This would include a community orchard, a pond and informal play facility. Some further landscaping would be provided along the A20 frontage.
24. Unlike the Parish Council, the local planning authority, in common with the AONB Unit's position as clarified at the Inquiry, does not oppose the principle of development but objects to the specific scheme set out in the illustrative

- details. These particularly include concerns that the scheme would fail to provide an adequate landscaped buffer to the A20, that provision of structural landscaping within the site would be inadequate, and specific concerns regarding the intensity of development at the north-east corner closest to the AONB where a three-storey signature building is indicated.
25. Whilst noting the confirmation given by the Council to the Inquiry that the scheme would accord with the authority's requirements for residential density, I share all these misgivings. I am particularly concerned about the key relationship of the site's northern frontage to the SLA and AONB and, notwithstanding variations in ground levels, more specifically, the impact of the proposed feature building. Whilst I can appreciate a case for a feature development in appropriate circumstances, the priority for the A20 frontage and, more particularly the north-east corner closest to the AONB, should be a sensitive and sympathetic transition to the open landscape and scenic beauty of areas to the north. A relatively prominent built form would not achieve that and would appear incongruous relative to the sensitive, open setting.
26. In response to the Council's concerns, the appellant is proposing to re-cast the design and layout within the context of a minimum landscape buffer of 15 metres to the A20 frontage, to delete the three-storey building, and to ensure that no buildings would be higher than two-storeys. Whilst the appellant has indicated that a development of 82 dwellings could still be accommodated through smaller units and a different housing mix to that previously proposed, it also advised the Inquiry that, for commercial reasons, it would, in any event, be looking to develop a significantly lower number of dwellings, possibly 67.
27. Layout, landscaping and appearance are all reserved matters and, should this appeal be allowed, it would be incumbent upon the appellant to satisfy the Council, in consultation with other interested parties, in such regards relative to the particular number of dwellings up to 82 which may be proposed.
28. The Council remains unconvinced that the depth of the landscape buffer would be adequate at 15 metres and instead recommends 50 metres. Reference was made by the appellant at the Inquiry to the effectiveness of comparable landscaping around the nearby Marley Works and to that at the nearby school and which, in the context of contrasting built forms, I observed at my visit. I also noted the significant presence of existing mature planting along the appeal site's main A20 frontage and the presence of established hedges enclosing both the A20 and Ham Lane frontages. The appellant indicated at the Inquiry possibilities for further screening by allowing managed growth of the hedges pending establishment of more mature planting behind.
29. In all these circumstances, I consider a minimum depth of 15 metres to be reasonable, particularly given deletion of the three-storey building. Subject to an appropriate quality and density of planting, I find the scheme should provide a sensitive relationship to open land to the north in this regard. The revised terms of the scheme would also afford the opportunity for improved structural planting within the site and for strengthening existing established planting, particularly around its publicly exposed boundaries.
30. Taking the above factors together, I therefore conclude that the proposed development, in the outline and further amended terms as proposed, would not, by reason of likely form and extent, be harmful to the character and appearance of the appeal site. Whilst the development would be contrary to

aspects of Policy ENV28, it would not be contrary to Policy ENV33 of the Maidstone Borough-Wide Local Plan 2000 (the saved Local Plan).

31. Policy ENV28 seeks to ensure, amongst other matters, that development will be resisted in the countryside which harms the character and appearance of the area and should be confined to specific circumstances. The countryside is defined to be all those parts of the plan area not within the development plan boundaries shown on the Proposals Map. Nevertheless, although outside the defined development boundaries for the purposes of Policy ENV28 and contrary to accompanying criteria, I do not find the scheme to be significantly harmful for the reasons described.
32. Policy ENV33 states that, within the Kent Downs AONB, the conservation of the natural beauty of the landscape will be given priority over other planning considerations, but the appeal site lies outside the AONB, and in any case, for the reasons given, would not be significantly harmful to the appeal site by virtue of form and extent.
33. I also find the scheme would accord with the general expectations of the National Planning Policy Framework (the Framework) which places great importance upon high quality design and the significance of local distinctiveness.
34. Given the outline terms of the application now before this appeal, and the significant modifications as proposed in response to the Council's and other parties' objections, I conclude the application would offer the potential for a scheme which would constitute good design with particular regard to its layout, landscaping and scale.

*Character and appearance of the open countryside, including the setting of the Kent Downs AONB*

35. The original detailed application was accompanied by a Landscape and Visual Assessment dated August 2014 (the LVA). The appellant's evidence addresses both landscape and visual impacts and assesses the site and its immediate surroundings as being of overall medium landscape quality, and the degree of landscape change proposed to be low to medium. It concludes that the landscape sensitivity of the site relative to the type of development proposed to be low to medium, and that the overall landscape effects would be slight to moderate adverse at their greatest which would occur in winter soon after completion. The LVA also identifies a relatively limited visual envelope to the development, suggests some low level visual effects for users of the PRW's to the north, and that the effects would be expected to decline over time as proposed landscaping becomes established. It concludes that the effect on views from within the AONB would be no more than slight adverse.
36. No dispute is raised by the Council regarding the methodology of the appellant's assessment. The Council assesses the actual impact to be more severe, however, and refers to a number of documents in evidence, including the Maidstone Landscape Capacity Study: Site Assessments January 2015 (undertaken by independent consultants, Jacobs), the Maidstone Landscape Character Assessment 2012 as amended (the LCA), and the Kent County Council Landscape Assessment of Kent 2004. The LCA identifies the site as part of the Harrietsham to Lenham Vale Landscape Character Area and key characteristics are seen to include its proximity to the AONB to the north and

an upwards sloping topography towards the foothills and lower slopes of the North Downs. The site is also part of a broader Wealden Greensand National Character Area.

37. The Jacobs' assessment identifies the site's landscape character sensitivity to be moderate, its visual sensitivity to be moderate and its landscape value to be high. It further concluded the site had a low capacity to accommodate housing. In short, the Council contends the appellant's LVA to under-estimate the scheme's overall impact.
38. Reference is made by the Council and other parties to the appeal site's location within the setting of the AONB. Although the term 'setting' is not expressly defined in the Framework as it may relate to an AONB, the relative proximity is clear and the resulting relationship is a significant consideration for the assessment of any future development of the appeal site. Section 85 of the Countryside and Rights of Way Act 2000 (CROW) also places a general duty upon public bodies, in exercising or performing any function in relation to land in an AONB, to have regard to the purpose of conserving and enhancing its natural beauty.
39. The Council's witnesses accepted at the Inquiry that the site had no specific landscape features of particular significance. The site is a field forming part of pleasant countryside adjacent to the settlement. It contributes to a wider pattern of open countryside and of other development but, in itself, I find is physically unremarkable in terms of its landscape and visual qualities.
40. From key views to the north, the site forms part of a wider panorama including both open countryside and built forms such as Swadelands School and the residential developments in and around Ham Lane. In this wider context, I find the presence of houses would not appear as uncommon or incongruous features at the edge of the settlement.
41. I saw at my visit that the site and its surroundings would be visible adjacent to the settlement from various points along the PRW's to the north but the main views from within the AONB would, by virtue of their respective locations and accompanying distances, be limited and already include built forms in and around Lenham and the A20. Such views would be experienced at relatively short intervals and, in themselves, I do not find they would be so intrusive as to be inconsistent with the wider existing panoramas in and around the site.
42. Given the location and extent of the intervening SLA, and the absence of public views from within the appeal site, I find the direct contribution of the appeal site as part of the viewed foreground to the AONB to be limited.
43. At the more immediate, local level the presence of dwellings would be more directly apparent, but the transition now proposed from adjacent open land is likely to be sufficiently sensitive given the landscape buffer and other modifications as identified.
44. Reference has also been made by third parties to historic views from within the appeal site. Little specific detail has been provided, but the appeal site is private land with no public rights of way. By contrast, if developed as proposed, the likelihood is of greater public access by the very nature of the use. Further, safeguarding of any significant views would be a matter for

detailed consideration by the appellant and the Council in considering possible future reserved matters.

45. Accordingly, as with the first main issue, I find the development would be contrary to Policy ENV28 of the Saved Local plan insofar as it would lie outside the Plan's development boundaries, but the development would not otherwise be significantly harmful. The development would also not be contrary to Policy ENV33 of the saved Local Plan which refers to land within the Kent Downs AONB and does not thereby directly apply. Reference has also been made to Policy ENV34. This policy refers to Special Landscape Areas, and the need for particular attention to be given to the protection and conservation of scenic quality and distinctive character in such areas. Again, the site does not form part of the SLA and that designation is not being carried forward through the emerging Local Plan.
46. Policy SP 17 of the Maidstone Borough Local Plan - Publication (Regulation 19) February 2016 (the emerging Local Plan) seeks to protect the character and appearance of the countryside and the distinctive character of the Kent Downs AONB and its setting, and I find the scheme would accord with that aim.
47. Whilst the site is identified in the Strategy Plan to the Lenham Neighbourhood Plan (the Neighbourhood Plan) as part of countryside to be protected extending west from Ham Lane, the plan has yet to be examined and made, and this aspect appears inconsistent with the emerging Local Plan. Given the amendments to the scheme and its outline form, I do not consider the scheme would offend other policies of the Neighbourhood Plan, including Policy LNP2 which seeks to ensure that new housing development would contribute to landscape enhancement and be sympathetic to the setting of the AONB, and Policy LNP5 which requires design of new development to be mindful of the outstanding natural and built quality of the parish.
48. The Kent Downs AONB Management Plan April 2014 (the Management Plan) is also a further significant material consideration. Policy SD1 seeks to conserve and enhance the natural beauty of the AONB, and Policy SD3 to oppose development which runs counter to this primary purpose. Policy SD8 opposes development which would negatively impact on the distinctive landform, landscape character, special characteristics and qualities of the AONB, and upon its setting, and views to and from the AONB unless they can be satisfactorily mitigated. For the reasons described, I consider the scheme would provide for satisfactory mitigation in accordance with Policy SD8, and similar possibilities for mitigation are acknowledged by the Management Plan in Policy SD11.
49. At the national level, paragraph 115 of the Framework requires great weight to be given to conserving landscape and scenic beauty in the AONB. The AONB is a landscape with the highest status of protection in relation to landscape and scenic beauty, and I am satisfied the scheme responds accordingly, and to the expectations of section 85 of CROW insofar as the AONB would be conserved.
50. Paragraph 116 of the Framework indicates that planning permission should be refused for major developments in AONB's, but the site lies outside the AONB.
51. The Framework further states at paragraph 109 that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. Notwithstanding the evolving

Neighbourhood Plan, the appeal site carries no formally adopted designation, and no objection is raised by the authority on that basis. In this regard, I am also mindful of the findings of *Stroud v Secretary of State for Communities and Local Government and Gladman Developments Ltd* (2015) EWHC 488 which concurred with the Inspector's view that, in order to be valued, a site had to show some demonstrable physical attribute rather than just popularity. Even so, I also have regard to the Minister of State for Housing and Planning's affirmation by letter dated 27 March 2015 of the importance of the impact of development upon landscapes outside designated areas and which I note post-dated the Stroud decision.

52. The government's Planning Practice Guidance (the Guidance) further advises that, in exercising any of their functions, relevant authorities have a duty to have regard to the purposes of the AONB. I note the Guidance advises that this duty is still relevant in considering development proposals that are situated outside AONB boundaries but which might have an impact on the setting of, and implementation of, the statutory purposes of these protected areas.
53. Taking all the above factors together, however, I conclude that the revised terms of the proposed development would not be harmful to the character and appearance of the open countryside, including the setting of the Kent Downs AONB.

#### **Other Matters**

##### *Five-year housing land supply*

54. The Framework requires the local planning authority to identify and update annually a supply of specific deliverable housing sites sufficient to provide five years' worth of housing relative to its full objectively assessed needs for market and affordable housing.
55. The Inquiry heard it was agreed common ground that, as of April 2014, the Council had a housing land supply of 2.1 years and the authority accepted it remained unable to demonstrate a five-year supply. The Council indicated at the Inquiry that, based upon April 2015 data, the supply had increased to 3.3 years relative to an objectively assessed need for some 18,560 dwellings, and that it was hopeful to be able to demonstrate a five-year supply as part of the forthcoming Local Plan examination later this year. Be that as it may, little evidence was placed before the Inquiry regarding the basis for that contention and the fact remained that the Council had not sought to demonstrate a five-year supply.
56. In the absence of a five-year supply of deliverable housing land, it would follow, by virtue of paragraphs 47 and 49 of the Framework, that relevant policies in the development plan for the supply of housing would be considered out-of-date. Further, by virtue of being out-of-date, relevant provisions of the presumption in favour of sustainable development under paragraph 14 of the Framework would also be engaged.
57. Notwithstanding the Council's assertion post-Inquiry that it is now able to demonstrate a five-year housing land supply, as the authority's up-to-date full objectively assessed housing needs have yet to be formally demonstrated, tested and endorsed through the thoroughness and robustness of the local plan

process, I cannot be satisfied that a five-year housing land supply exists. Accordingly, I consider that paragraphs 49 and 14 are engaged.

58. In accordance with the judgment of the Court of Appeal in *Suffolk Coastal District Council and Hopkins Homes Limited and the Secretary of State for Communities and Local Government, and Richborough Estates Partnership LLP and Cheshire East Borough Council 2016* (EWCA Civ 168), I find that Policy ENV28, Policy ENV33 and Policy ENV34 of the saved Local Plan, Policy SP 17 of the emerging Local Plan, and the accompanying settlement boundaries, and the Strategy Plan and associated policies of the Neighbourhood Plan all, to varying degrees, create or constrain housing supply and, accordingly, are to be considered out-of-date.
59. Reference was also made by the Parish Council at the Inquiry to possible development of further housing sites as part of the Neighbourhood Plan process. The Parish Council advised the Inquiry that not all relevant discussions were yet in the public domain and such details were not therefore available for testing as part of the appeal.

*Future development strategy for Lenham*

60. Policy SP 5 of the emerging Local Plan identifies the principle of Rural Service Centres (RSC's) as a focus for new housing and employment development, subject to allocation of sites and other criteria. Policy SP 8 more specifically identifies the Lenham Rural Service Centre as where key services will be retained and supported in conjunction with development of 165 new dwellings on two allocated sites, additional to redevelopment of appropriate sites in accordance with Policy SP 5. More generally, Policy H 2(3) identifies Lenham as a broad location for housing growth both east and west of the settlement. It identifies development of up to 1,500 dwellings towards the end of the Local Plan period (post-2026) and the possibility of earlier development if required by the Council's housing land supply position. This is also broadly consistent with Policy LNP1 of the Neighbourhood Plan which seeks to deliver a significant number of dwellings over the Local Plan period.
61. My attention has also been drawn to previous decisions to allocate the appeal site for housing development (previous emerging Local Plan Ref: H1(31)) and to its subsequent deletion. The Committee report to the appeal proposal indicates the reason for deletion related to its impact upon local character. The merits or otherwise of individual allocations remain to be addressed as part of a future Local Plan examination but I acknowledge the evidence regarding the contrasting characteristics of a retained allocation at nearby Tanyard Farm (previous emerging Local Plan Ref: H1(29), now H1(42)). In particular, I note the evidence submitted that the retained site appears to have a more sensitive relationship to the AONB. In the emerging Local Plan, the appeal site had also been identified to have an approximate net capacity for 80 dwellings, Tanyard Farm for some 155 dwellings.

*Coalescence between Lenham and Harrietsham*

62. The Council's reason for refusal does not make specific reference to concerns towards coalescence between the two settlements but, at the Inquiry, the authority suggested this was implicit.

63. The appellant's evidence suggested the existing gap between the settlements to be some 1.3 kilometres in extent and that was not disputed by the Council. Any development within the gap would physically reduce the existing separation. The scheme would involve a westward expansion of Lenham measured by the parties along the A20 frontage to be some 162 metres, some 143 metres of the appeal site remaining undeveloped.
64. Coalescence is about sightings of settlements as one development in the same view, about the extent to which such views may occur, and about what this may mean for their respective identities. This would significantly reflect matters of scale, distance, exposure and perspective.
65. Although few specific details have been provided, such occurrences where the two settlements might appear as one would seem likely to be very limited, and the remaining relative distance between the two settlements perceived by any viewer would be considerable. I am satisfied that both settlements would generally remain visually distinct.

*Lenham Neighbourhood Plan*

66. The first of twelve core planning principles set out in the Framework is that planning should be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of their area. The Neighbourhood Plan, whilst progressing and subject to significant community engagement, remains at a relatively early stage of preparation and, at the Inquiry, the consultant acting for the Parish Council in this specific regard indicated that examination is unlikely before the autumn.
67. Concerns have been expressed by the Parish Council that this appeal is a serious challenge to the integrity of the Neighbourhood Plan. My decision is about assessing the possible effects of the proposed development relative to the policies, not only of the Neighbourhood Plan, but also with regard to the other constituent parts of the development plan taken as a whole, and relative to the national requirements of the Framework and section 38(6) of the Planning and Compulsory Purchase Act 2004 (the Act). It is not just about the particular merits or otherwise of the Neighbourhood Plan itself, and the provisions of the Framework as they relate to sustainable development and the implications of the Council's lack of five-year housing land supply, as presented to the Inquiry, necessarily relate to all components of the development plan, including the Neighbourhood Plan. If this appeal were to be allowed, it would be for the Neighbourhood Plan to respond and adjust accordingly as part of its preparation.

*Unilateral Undertaking*

68. The submitted planning obligation provides for contributions in relation to both the full application for 82 dwellings and for an outline application of up to 82 dwellings.
69. Commitments are made to various matters to mitigate the impact of the development, including contributions to various community facilities. A commitment is also made to provide 40% of the dwellings as affordable units in accordance with Policies DM 13 of the emerging Local Plan and Policy LNP8 of the Neighbourhood Plan.



70. The local planning authority, in conjunction with other relevant services, has provided evidence of compliance with the relevant provisions set out in Regulations 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010 and this is not disputed. I have also had regard to the Framework, and to the relevant advice of both the Guidance, and of the Planning Inspectorate's Procedural Guide Planning Appeals - England, published 23 March 2016.
71. The Council indicated at the Inquiry that it was satisfied with the form and content of the draft agreement as a deed, and has since confirmed it has no further comment in relation to the final document. Kent County Council has also indicated the Undertaking satisfies its requirements.
72. I find the agreement to be generally fit-for-purpose. Accordingly, I take into account the commitments and accompanying terms as considerations of my decision.

*Other considerations*

73. I have had regard to all other matters raised in relation to the appeal, both at the Inquiry and in written evidence, and including references made to various other planning and related decisions. In this regard, whilst recognising the importance of consistency for fairness and other considerations in planning decisions, the particular planning circumstances of all cases will be different, and each balance of judgement will vary accordingly.
74. I have had particular regard to appeal decision Ref: APP/U2235/A/04/1144519 dated 23 September 2004 relating to Westwood, Ham Lane, Lenham, Kent ME17 2LP, which I note pre-dated the Framework, and to appeal decision Ref: APP/U2235/W/15/3119223 dated 30 November 2015 relating to an outline application for 40 dwellings at Land south of Court Lodge Road, Harrietsham, Kent ME17 1AS. Whilst the appeal relating to land in Court Lodge Road was dismissed, I note that, unlike the appeal site, the land formed part of a designated SLA and had a different physical relationship to the AONB, and that the decision reached different conclusions regarding the particular impacts of landscaping and relationships to local views.
75. Objections have been raised by residents to the east in The Cloisters and to the south in Westwood Close. These particularly concern implications for their living conditions arising from loss of views across a currently open field. I also noted at my visit the presence of viewing panels to the northern boundary fence of Westwood Close and the presence of balconies. Nevertheless, whilst I acknowledge the amenity of these dwellings would undoubtedly be affected through the change in outlook, the Courts have generally held that private views are not in themselves regarded as a planning matter even though they may be of significance to occupiers and there may be a financial impact upon the value of properties from where such an outlook may be lost.
76. A number of other matters have been raised by third parties, including traffic impacts, implications for local services and infrastructure, possible consequences in connection with flooding, air quality, loss of agricultural land, and other implications for the living conditions of neighbouring residents. These and other matters have not been raised as objections by the Council, and I have considered the relevant evidence submitted by all the parties. I have little reason to conclude that such matters represent grounds to preclude

development. Besides, this is an outline application with all matters other than access reserved for subsequent consideration should the appeal be allowed.

77. Matters of ecology and wildlife would be further addressed by planning conditions should the development otherwise be found to be acceptable, and I note that Kent County Council Highways and Transportation raises no objection to the principle of the development. The Unilateral Undertaking also provides for mitigation to address various matters raised, including school capacity. Reference has been made to local bus capacity, but little evidence is before me of an issue in that regard.
78. I have also noted the planning history of the site and the various references made to pre-application and other discussions and consultations, and including the appellant's Statement of Community Involvement.

*Sustainable development*

79. The Framework makes clear that housing applications should be considered in the context of the presumption in favour of sustainable development. The purpose of the planning system is to contribute to the achievement of sustainable development. Sustainable development is defined by the Framework with reference to the policies in paragraphs 18 to 219 taken as a whole. The Framework further identifies economic, social and environmental dimensions to sustainable development.
80. The scheme would undoubtedly provide considerable and much needed housing benefits, in terms of both affordable and market provision, and such benefits would be consistent with the social dimension of sustainable development. The investment represented by the development would also be consistent with the economic dimension. The economic benefits would include investment in construction and related employment for its duration, an increase in local household expenditure and demand for services, and financial contributions to the Council through New Homes Bonus payments. The local economic context also includes the development plan's recognition of Lenham as a suitable location for growth.
81. In environmental terms, however, the scheme would incur loss of an open field and implications for some public and private views, and these need to be assessed relative to the Framework's aspirations for planning to recognise the intrinsic character and beauty of the countryside.
82. In relation to section 85 of CROW, I am clear that the scheme would not fail to conserve the AONB, but I also recognise it would not enhance the designation. Nevertheless, I consider the extent to which this expectation applies to the appeal scheme has to be qualified by the location of the site outside the boundaries of the AONB, but in the setting in which it lies. In particular, I find it reasonable to acknowledge that the opportunity for any development to enhance the AONB is limited when the site does not form part of the AONB in the first instance. Further, and in any event, the implications of this duty must be reflected in paragraph 115 of the Framework which, although not having the status of a statutory instrument, post-dates CROW and would have been drafted in that context. It tells us that great weight should be attached as part of my decision to conserving landscape and scenic beauty in the AONB.

83. In summary, the scheme would offer considerable economic and social benefits consistent with the Framework, and adverse environmental implications would be limited.

### **Overall planning balance**

*As based upon the evidence submitted to the Inquiry*

84. Paragraph 12 of the Framework reminds us of the statutory status of the development plan as the starting point for decision-making. It explains that proposed development which accords with an up-to-date Local Plan should be approved, and that proposed development that conflicts should be refused unless other material considerations indicate otherwise.
85. The saved Local Plan has an end date of 2006, but I have little information before me regarding its current relevance to local housing needs. Whilst the emerging Local Plan, working to a possible adoption in Spring next year, and the Neighbourhood Plan, are more contemporary, their preparations are on-going and they have yet to be subject to formal examination. Paragraph 216 advises that decision-takers may give weight to relevant policies in emerging plans according to, amongst factors, the stage of preparation of the emerging document. Accordingly, the weight to be attached to these documents is relatively limited except to the extent to which particular policies may be consistent with the terms of the Framework. The Management Plan, albeit a management document, remains a significant material consideration but only to the extent to which it is also consistent with the same provisions of the Framework.
86. It is clear to me that the outline application now subject to this appeal would offer a number of important additional enhancements relative to the originally submitted scheme. In particular, the proposal would:
1. delete a three-storey 'gateway' building from the key north-east corner of the site;
  2. accommodate a landscape buffer along the A20 to a minimum depth of 15 metres, significantly more substantial than the limited landscaping of the previous detailed scheme;
  3. the combined effect of 1. and 2. would be to provide the opportunity to create a far more physically sensitive transition from the AONB to the appeal site at its closest point, and from the SLA;
  4. ensure no buildings would be more than two storeys high;
  5. ensure land to the west of the main built area and fronting the A20 would be retained and enhanced in open form and would preclude future built form;
  6. afford the possibility of a lesser number of dwellings than 82 should the Council not be satisfied in relation to subsequent reserved matters, and in accordance with the developer's stated revised commercial aspirations for the site;
  7. afford the opportunity for appropriate structural landscaping integral to the development, and;

8. enable a scale and form of development to be agreed reasonably commensurate with the available space.

87. Further, both the Council's witnesses confirmed they had no objection to the principle of an appropriate housing development but opposed the specific nature of the full application considered by the authority, and I can appreciate the conclusions previously reached by the Council that, in some acceptable form, allocation of the site for a housing development may be appropriate.
88. I accept the relationship of the proposed scheme to the AONB and other open land to the north to be critical. Whilst not enhancing the AONB, I have given great weight as part of my decision to the need to conserve its landscape and scenic beauty, and am satisfied that the scheme would not cause significant harm and would thereby not fail to conserve the AONB.
89. Furthermore, not only does the authority have an immediate and pressing need for new housing, including affordable dwellings, but Lenham is itself being promoted through the Council's development plan as a broad strategic location for considerable growth and including land to the west of the settlement. This need becomes more significant in the planning balance given the Council's inability to demonstrate a five-year housing land supply.
90. At the Inquiry, the Council sought to question the extent to which the contributions set out in the Undertaking should be regarded as benefits over and above minimal mitigation compliant with Regulation 122. There is no doubt that the proposed affordable housing is a benefit insofar as it confers a provision over and above what may otherwise arise from market housing and in specific response to a local need. The emerging Local Plan indicates an annual need to accommodate some 322 households between 2013 and 2031. Further, provision in conjunction with development of market housing is a primary means of delivery and each such site has a particular premium given that the authority is unable to demonstrate a five-year supply of housing.
91. In other respects, I accept the degree of benefit conferred by the Undertaking will vary but, as with the example of library books cited at the Inquiry, the availability of such books and other services to be funded would not just be confined to residents of the up to 82 new dwellings but would be generally available, in economic terms, to the local community as a public good.
92. Hence I find that that the parameters of the outline scheme now proposed represent an appropriate and pragmatic response to the constraints and sensitivities of the site. Given the outline terms of the application now before me, and the significant modifications as proposed in response to the Council's and other parties' objections, I find the revised proposal would offer the opportunity for a detailed scheme which would constitute good design with particular regard to its layout, landscaping and scale and which would create a sensitive relationship to the AONB and surrounding sites. I am satisfied that the scheme reasonably addresses the concerns set out in the Council's decision notice whilst allowing the significant benefits of development to be realised.
93. The presumption in favour of sustainable development set out in paragraph 14 of the Framework states that, where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a

whole, and unless specific policies in the Framework indicate development should be restricted.

94. This is further qualified by Footnote 9 to the Framework which would disengage the weighted planning balance test to land designated as an AONB. The Council submits the Footnote must apply to a site which forms part of the setting of the AONB given its very close proximity, but Footnote 9 expressly refers to 'land designated' as an AONB. The appeal site does not form part of the AONB, is not designated as such, and carries no other designation within the Council's development plan.
95. I therefore conclude that the proposed scheme would constitute sustainable development, and that the weighted planning balance required by paragraph 14, as clarified by the rebuttal presumption set out in Cheshire East Borough Council and the Secretary of State for Communities and Local Government and Renew Land Developments Ltd [2016] EWHC 571 (Admin), is such that planning permission should be granted. Further, and in any event, even if the weighted balance would not apply by virtue of Footnote 9, I am satisfied that, in applying section 38(6) of the Act, the same overall conclusion in favour of the scheme would be reached having regard to the development plan, to the Framework and to all other material considerations.

*As reflecting further information post-Inquiry*

96. At the Inquiry, the Council and the appellant agreed that the local planning authority could not demonstrate a five-year housing land supply and, on that basis, I have found that the appeal should be allowed for the reasons given above.
97. Post-Inquiry, the Council has said that it does now have a five-year housing land supply. The appellant disagrees. Nevertheless, I have considered what the situation would be if the Council were to be correct in its assertion.
98. If the authority were able to demonstrate a five-year housing land supply, it would mean that relevant policies for the supply of housing would not be automatically out-of-date by virtue of paragraph 49. Even so, I do not consider that the scheme would be contrary to the countryside aspirations of Local Plan Policy ENV28 insofar as it would not harm the character and appearance of the area. Nor would it be contrary to Policies ENV33 or ENV34 for the reasons indicated. Hence, even if these policies were not to be out-of-date, significantly greater harm would not weigh against the scheme such as to change the overall planning balance.
99. Relevant policies of the Neighbourhood Plan would no longer be constrained in their weighting through the absence of a five-year land supply, but would still attract only limited weight given their emerging status.
100. The availability of a five-year housing land supply would, however, reduce the weight to be attached to the housing benefits of the scheme as part of the planning balance given the new availability of other solutions to addressing local need.
101. Nonetheless, the housing benefits of the scheme would still be considerable, and other benefits as identified, including the various economic and social dimensions of a sustainable development, would remain. The adverse impacts of the scheme would still not out-weigh the benefits.

102. Section 38(6) of the Act requires this appeal to be determined in accordance with the development plan unless material considerations indicate otherwise. Notwithstanding some limited conflict with aspects of the development plan as it relates to protection of the countryside, the approach to be followed pursuant to section 38(6) leads me to the clear conclusion that other considerations, principally the benefits of the scheme, would still outweigh remaining contrary aspects of the development plan. I find, with regard to the development plan as a whole and regardless of whether the weighted balance of paragraph 14 applies, that the scheme would be sustainable development for which permission should be granted.

### **Conditions**

103. I have considered the largely agreed list of conditions put forward by both parties to the Inquiry. In assessing such matters, I have regard to the advice set out in the Guidance and in the Framework in terms of both the need for individual conditions and of appropriate wording.
104. As proposed at the Inquiry by the appellant, I attach conditions requiring a landscaped buffer no less than 15 metres deep at any point along the site's northern A20 boundary, and ensuring that no building shall be more than two storeys in height, and a condition ensuring that the land to the west of the proposed main built area be retained in open form and shall not be used to accommodate any proposed dwellings.
105. For the avoidance of doubt and in the interests of proper planning, a condition is imposed to ensure the development is undertaken in accordance with the relevant drawings.
106. To safeguard the relationship between the character and appearance of the appeal site and surrounding countryside, a condition requires retention of existing planting and a specific management plan in relation to the boundary hedges. An Arboricultural Method Statement (AMS) and a Tree Protection Plan (TPP) are required to safeguard existing planting.
107. In view of the significance of views in and around the AONB during the hours of darkness, a condition requires details of external lighting to be agreed. This also has implications for maintaining highway safety. I gave possible consideration to further restrictions upon future lighting within the curtilages of individual properties but, in view of the scale and level of detail likely to be involved, I conclude this would not be reasonable.
108. To safeguard any heritage value of the site, a scheme of archaeological investigation is necessary. To safeguard the ecological value of the site, a condition requires a specific scheme of mitigation. To promote sustainable transport, a condition requires implementation of a Travel Plan and, in the interests of the free and safe movement of vehicles and pedestrians, a further condition requires arrangements for works to the public highway to be approved. Specific reference is also made to the need for the arrangements for access to be implemented in accordance with an agreed programme and for sightlines to be retained.
109. To ensure the creation of satisfactory living conditions, and to contribute to a sustainable development, conditions require details to be submitted and be approved by the local planning authority relating to surface and foul water

drainage, and for the development to accord with the submitted noise assessment. Whilst I have little clear evidence of site contamination, it is still necessary to safeguard the living conditions of future occupiers of the development by ensuring that appropriate arrangements are made for identification and treatment of any on-site contamination which may be present. To protect the living conditions of future and neighbouring occupiers, a condition requires details of arrangements for refuse to be approved.

110. I am concerned about the potential implications of construction work for the immediate living conditions of neighbouring occupiers in Ham Lane during development. To protect the living environment of those occupiers, it is necessary for the works to be undertaken in accordance with a Construction Method Statement, the precise terms of which remain to be agreed.
111. I note that Kent Police made recommendations in relation to Crime Prevention Through Environmental Design and other matters in response to the original detailed application. Whilst undoubtedly relevant to the final development, such issues would be for consideration as part of the subsequent reserved matters. Reference was also made at the Inquiry to the importance of external materials and of a detailed design sensitive to the AONB but, again, such issues would be reserved matters not before this appeal.

#### **Conclusion**

112. For the above reasons, the appeal is allowed subject to the conditions set out in the attached schedule.

*Peter Rose*  
INSPECTOR

## **SCHEDULE OF CONDITIONS**

### **General**

1. Details of appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and be approved in writing by the local planning authority before any development begins and the development shall be carried out as approved, and such matters shall include full details of the number of dwellings not exceeding 82.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.
3. The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
4. The development hereby permitted shall be carried out in accordance with the approved drawings Ref: 3605/2.00/2B, Ref: 3605/2.10N and Ref: 3605/2.00/2, but only to the extent that drawing Ref: 3605/2.00/2B defines the site boundary in red and drawing Ref: 3605/2.10N defines details of proposed access and, in respect of those two drawings, all other details as indicated thereon are not hereby approved.

### **Pre-commencement**

5. The reserved matters to be submitted pursuant to Condition 1 shall include details of a landscaped buffer no less than 15 metres deep at any point along the entire length of the site's northern A20 boundary. This buffer shall be retained as such after completion and shall not accommodate any dwellings.
6. The reserved matters to be submitted pursuant to Condition 1 shall not include any building more than two storeys in height.
7. Subject to the details as approved in relation to the proposed access, all existing trees and hedges within the site shall be retained unless otherwise agreed in writing by the Local Planning Authority. This shall include the existing hedges along the site boundaries to both the A20 and Ham Lane. Further, a management plan for maintenance of the existing boundary hedges shall be submitted to and be approved in writing by the Local Planning Authority prior to the commencement of any development indicating arrangements to ensure retention and appropriate growth of the hedges as permanent screening of the development.
8. No development shall take place until an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP), which shall include details of any tree and hedge works that would be necessary to implement the proposal and details of all trees and hedges to be retained and the proposed measures for protection, have been submitted to and been approved in writing by the Local Planning Authority. The AMS shall include full details of areas of hard surfacing within the root protection areas of retained trees which should be of permeable construction, and full details of foundation design for all



buildings within root protection zones where the AMS identifies that specialist foundations are required. The measures to be approved pursuant to the TPP shall be implemented before any equipment, machinery or materials are brought onto the site and shall be retained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the prior written consent of the Local Planning Authority.

9. No development shall take place until an archaeological investigation of the site has been carried out in accordance with a specification to be submitted to and be approved in writing by the Local Planning Authority. The specification shall include proposals for an initial trial investigation and for mitigation of damage to deposits of importance thus identified. The investigation shall be undertaken by an appropriately qualified archaeologist in accordance with an agreed programme, and shall include the recording of findings and subsequent publication of results.
10. No development shall take place until full details of a scheme for proposed sustainable surface water drainage have been submitted to and been approved in writing by the local planning authority, and including arrangements for subsequent management. The scheme shall include appropriate flood mitigation measures and shall be implemented in accordance with the approved details, and in accordance with an agreed programme.
11. No development shall take place until full details of a scheme for foul water sewerage disposal have been submitted to and been approved in writing by the local planning authority, and the details shall be implemented as approved and in accordance with an agreed programme.
12. No development shall take place until full details of ecological mitigation and other measures in accordance with the submitted Aspect Ecology Ecological Assessment Ref: ECO3565.EcoAs.vf2 dated August 2014, and including precautionary strategies for breeding birds, dormice, reptiles and badgers, have been submitted to and been approved in writing by the Local Planning Authority. The approved details shall be implemented in accordance with an agreed programme.
13. The arrangements for access shown on drawing Ref: 3605/2.10N shall be implemented in accordance with a programme to be submitted to and be approved in writing by the Local Planning Authority, and the sightlines indicated shall thereafter be maintained free of all obstructions to visibility to a height of 1.0 metre above ground level.
14. No development shall take place until arrangements for associated works to the adjacent public highways, including a programme for implementation and arrangements for emergency access to the site, have been submitted to and been approved in writing by the Local Planning Authority, and the works shall be undertaken in accordance with the details and programme as agreed.

- 15.No development shall take place until a site investigation of the nature and extent of any contamination has been carried out in accordance with a methodology which has previously been submitted to and been approved in writing by the Local Planning Authority. The results of the site investigation shall be made available to the Local Planning Authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and be approved in writing by the Local Planning Authority. The site shall be remediated in accordance with the approved measures and in accordance with an agreed programme. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and be approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures in accordance with details and a programme of works to be approved in writing by the Local Planning Authority.
- 16.No development shall take place until a Construction Method Statement has been submitted to and been approved in writing by the Local Planning Authority. The approved Statement shall be implemented and adhered to throughout the construction period. The Statement shall include details and arrangements for the following matters:
- (i) parking of vehicles of site operatives and visitors;
  - (ii) loading and unloading of plant and materials;
  - (iii) storage of plant and materials used in constructing the development;
  - (iv) erection and maintenance of security hoardings;
  - (v) provision of wheel washing facilities and other measures required to mitigate the impact of construction upon the public highway;
  - (vi) measures to control the emission of dust and dirt during construction;
  - (vii) management of waste;
  - (viii) location of any site huts/cabins/offices, and;
  - (ix) details of public engagement both prior to and during construction works.

### **Other**

- 17.No part of the development shall be occupied until details of satisfactory facilities for the storage of refuse on the site have been submitted to and been approved in writing by the Local Planning Authority and the relevant approved facilities shall be provided before the first occupation of each dwelling and be retained thereafter.
- 18.No part of the development shall be occupied until a Travel Plan has been submitted to and been approved in writing by the Local Planning Authority. The Travel Plan once approved shall thereafter be implemented as specified within the agreed document. The Travel Plan shall accord with the principles set out in the submitted Transport Statement dated August 2014 and shall be implemented in accordance with an agreed programme.

19. The area of land shown shaded green on drawing Ref: 3605/2.00/2 shall be retained as open land and shall not accommodate any dwellings.
20. The development shall not be occupied until details of external lighting to be placed or erected within the site, and including a programme for implementation, have been submitted to and been approved in writing by the Local Planning Authority. The proposals shall include details of measures to shield and direct light from the light sources so as to prevent light pollution and shall be designed to minimise any implications for ecology. The works shall be carried out in accordance with the approved details and be retained thereafter.
21. The development hereby permitted shall be carried out in accordance with the recommendations of the submitted Grant Acoustics Noise Assessment Ref: GA-2013-0062-R1-RevC dated 13 August 2014.

**APPEARANCES**

**FOR THE LOCAL PLANNING AUTHORITY:**

Emmaline Lambert of Counsel	Instructed by Head of Mid-Kent Legal Services
She called:	
Deanne Cunningham	Team Leader, Heritage, Landscape and Design
Tony Ryan	Principal Planning Officer

**FOR THE APPELLANT:**

Paul Tucker of Queen's Counsel	Instructed by Jonathan Buckwell
He called:	
Jon Etchells	Jon Etchells Consulting Ltd
Jonathan Buckwell	DHA Planning

**INTERESTED PARTIES:**

Kingsley Hughes	Designscape Consultancy Ltd on behalf of the Parish Council
Paul Buckley	Campaign to Protect Rural England (Kent)
Katie Miller	Kent Downs AONB Unit
Henny Shotter	Local resident, Parish Councillor and member of Neighbourhood Plan team
Michael Cockett	Local resident, Parish Councillor and member of Neighbourhood Plan team
Michael Jerrett	Local resident, Parish Councillor and member of Neighbourhood Plan team

## **DOCUMENTS SUBMITTED TO THE INQUIRY**

### **By the Council:**

1. Opening submissions by Emmaline Lambert of Counsel
2. Compendium of Core Documents and Proofs (as previously provided)
3. Summary proof of evidence of Tony Ryan
4. Email from Deanne Cunningham to Richard Elder dated 29 February 2016
5. Email from Emmaline Lambert to Dana Saduka dated 28 April 2016 and accompanying plans relating to site boundary of AONB
6. Closing submissions by Emmaline Lambert of Counsel

### **By the appellant:**

7. Opening submissions by Paul Tucker of Queen's Counsel
8. Landscapes of Local Value, report to Council's Strategic Planning, Sustainability and Transport Committee on 8 September 2015
9. Landscapes of Local Value, Urgent Update Report to Council's Strategic Planning, Sustainability and Transport Committee on 8 September 2015
10. Plan of Landscapes of Local Value
11. Extracts from Maidstone Landscape Capacity Study: Site Assessments January 2015
12. Spatial Strategy Key Diagram p23, Maidstone Borough Local Plan - Publication (Regulation 19) February 2016
13. Key Diagram p132, Maidstone Borough Local Plan - Regulation 18 Consultation 2014
14. Policy ENV32 Maidstone Borough-Wide Local Plan 2000
15. Site plan of Court Lodge Road, Harrietsham
16. Landscape Proposals drawing Ref: JEC/357/100 Revision B
17. Location Plan Ref: 3605/2.00/2B
18. Site Plan Ref: 3605/2.10N
19. Letter from Chris Sparks, Managing Director, Jones Homes (Southern Ltd) dated 28 April 2016
20. Draft Unilateral Undertaking
21. Closing submissions by Paul Tucker of Queen's Counsel, and including Court decisions relating to Cheshire East Borough Council and the Secretary of State for Communities and Local Government and Renew Land Developments Ltd [2016] EWHC 571 (Admin), and relating to Jones and Mordue and the Secretary of State for Communities and Local Government and South Northamptonshire Council [2015] EWCA Civ 1243
22. Email and enclosures dated 6 May 2016 relating to AONB boundary

23. Final Unilateral Undertaking signed and dated 12 May 2016, and accompanying local planning authority comments submitted by email dated 13 May 2016, and from Kent County Council dated 18 May 2016

**Jointly by the main parties:**

24. Section 106 Schedule: Policy context and CIL test summary for obligations/contributions sought (and as subsequently updated by emails dated 10 and 11 May 2016)
25. Commentary in relation to compliance with Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010
26. Suggested draft list of conditions for full planning permission
27. Suggested draft list of conditions for outline planning permission
28. Suggested itinerary for site visit prepared in consultation with third parties
29. Suggested wording for conditions submitted by email dated 6 May 2016 relating to the land to the west shown shaded green on drawing Ref: 3605/2.00/2 and which is proposed to remain undeveloped, and for Travel Plan

**By other parties:**

30. Lenham Neighbourhood Plan Regulation 14 Submission February 2016 (and supporting publications) (from Neighbourhood Plan team)
31. Appeal decision APP/U2235/W/15/3119223 dated 30 November 2015 and relating to Land south of Court Lodge Road, Harrietsham, Kent ME17 1AS (from Mr Buckley)
32. List of SHLAA/Neighbourhood Plan references (from Henny Shotter)

**Other documents post-Inquiry**

Maidstone Borough Local Plan Housing Topic Paper 2016 and accompanying representations from the Council, and submissions from the appellant, and on behalf of Lenham Parish Council

## **APPENDIX 4**

## Housing Sites Assessment Proforma - 2014

1. SITE INFORMATION	
Reference number	HO3-195
Site name/address	Land R/O Loder Close, Ham Lane, Lenham
Landowner	DA & PJ Loder
Agent	Martin Davidson-White, Page and Wells
Greenfield/PDL	Greenfield
Site area (ha)	1.82
Proposed yield	Not Specified
Is the site urban, adjacent to urban, rural settlement or rural	Adjacent to Lenham Village Boundary
Site origin (call for sites/local plan rep?)	Additional call for sites

2. SITE ASSESSMENT/SUITABILITY	
Site description (including topography and surrounding land uses)	<p>The site lies to the west of residential developments (Loder Close and Westwood Grange, both outside the village boundary) on Ham Lane and extends into the open countryside. It shares a strong boundary with the aforementioned developments, which are largely two-storey semi detached properties. Properties to the rear of the Westwood Grange development, closer to Ashford Road, overlook the site in places.</p> <p>This is a flat field currently used for grazing horses. The boundaries to the north and south of the site are well defined and comprise tall hedges with intermittent trees. The land between the site and the A20, Ashford Road, is allocated in the emerging local plan (H1-31) for up to 80 dwellings.</p> <p>The site's boundary to the west is less defined and there are clear views of the open fields extending west to a line of mature trees which screen a larger detached property. Although the site has well defined boundaries to the north and south, it feels very much part of the rural setting west of Ham lane.</p> <p>Across the road from the site, east of Ham Lane, is a row of two storey residential properties, and the Lenham Storage facility on Ham Lane is approximately 150m to the south.</p> <p>Access to the site can easily be taken from Ham Lane, through the Loder Close residential development.</p>
Current use	Land is currently in use for grazing of horses
Adjacent uses	Residential, open countryside, recreation (sports playing field)
Planning and other designations (AONB, greenbelt etc)	None
Planning history	<p><b>None on site</b></p> <p><b>09/0315 (WESTWOOD, HAM LANE, LENHAM, MAIDSTONE, KENT, ME17 2LP)</b> - Erection of 19 dwellings and ancillary works previously approved under MA/03/1498/02. Resubmission for minor</p>



	<p>elevational/internal amendments - <b>Approved Subject to Cond.</b></p> <p><b>03/1498 (Westwood Ham Lane LENHAM)</b> - An outline application for the demolition of existing residential home and erection of private dwellings with all matters reserved for future consideration - <b>Refused</b></p> <p><b>03/2267 (William Pit Field Old Ham Lane LENHAM)</b> - Re-siting of sports wall/tarmac area and new skateboard area and revised parking and revise football pitches - <b>Approved Subject to Cond.</b></p> <p><b>91/0659 (Site at Ham Lane LENHAM)</b> - Erection of 10 no. 2 bedroomed houses and 2 no. 3 bedroomed houses - <b>Approved Subject to Cond.</b></p>
<p>Has site previously been considered in Local Plan Inquiry, if so, record Inspectors recommendation</p>	<p>No</p>
<p>Landscape/townscape impact – including reference to Landscape Character Assessment 2012 (inc. long distance views); cumulative landscape impact; existing screening</p>	<p>Landscape Character Area No. 16. Harrietsham to Lenham Vale</p> <p><b>KEY CHARACTERISTICS</b></p> <ul style="list-style-type: none"> <li>• Landscape to the north forms part of the Kent Downs AONB</li> <li>• Topography slopes upwards to the north across the foothills and lower slopes of the North Downs</li> <li>• Mosaic of mixed farmland divided by non rectilinear hedgerow boundaries</li> <li>• Pocket of lowland dry acid grassland</li> <li>• Small field pattern and equestrian grazing north of Harrietsham</li> <li>• Series of drains running south, often defined by ribbons of native vegetation</li> <li>• Blocks of native woodland</li> <li>• Large scale industrial and commercial development</li> </ul> <p>Condition Assessment Moderate Sensitivity Assessment Very High</p> <p><b>SUMMARY OF ACTIONS</b></p> <ul style="list-style-type: none"> <li>• Consider the generic guidelines for the Gault Clay Vale</li> <li>• Harrietsham to Lenham Vale is partly situated within the Kent Downs AONB. The Kent Downs AONB is a nationally important designation which offers a high level of development constraint</li> <li>• Land management policies for the conservation, management and enhancement of this landscape are set out within the Kent Downs AONB Management Plan 2009 – 2014. Also refer to guidance documents referenced in Appendix A</li> <li>• Conserve the undeveloped foreground and rural setting of the Kent Downs AONB</li> <li>• Conserve and appropriately manage the pocket of lowland dry acid grassland south west of Kiln Wood. Refer to Maidstone’s local</li> </ul>

	<p>Biodiversity Action Plan Phase 1: 2009 – 2014 HAP 2 Lowland Dry Acid Grassland and Heath</p> <ul style="list-style-type: none"> <li>• Conserve the mosaic field pattern and hedgerow boundaries, and restore further traditional boundaries where practicable</li> <li>• Resist further agricultural intensification and maintain the separation between Lenham and Harrietsham</li> <li>• Conserve the setting of traditional listed buildings and Conservation Areas</li> <li>• Resist further development along the A20 corridor</li> <li>• Resist further expansion of, or any new, industrial/commercial developments</li> </ul>
Ecological Impacts (inc. SSI & local wildlife sites within or adjacent to site)	<p>KCC Ecology</p> <p>Four grazed grassland fields which have hedgerows with some mature trees around the outside of site. The hedgerows have the greatest potential to be interesting for protected/notable species - particularly the SW boundary.</p> <p>Ecological constraint level 3</p>
Trees (inc. TPO, ancient woodland within and adjacent to site)	<p>Comments from Landscape team are as follows:</p> <p>Tree protection status: Whilst there are no protected trees there appear to be some significant trees alongside northeast, south and southwest site boundaries.</p> <p>Ancient woodlands (<i>from 'a revision of the Ancient Woodland Inventory for Maidstone borough, August 2012'</i>) There are no designated Ancient Woodlands.</p> <p>Hedgerow status: There are potentially 'important' hedgerows on field boundaries.</p>
Agricultural land quality	Grade 2
Heritage impacts (Listed building, conservation area)	<p>None</p> <p>MBC Conservation Officer</p> <p><b>Historic Buildings:</b> None affected</p> <p><b>Conservation Areas:</b> None affected</p> <p><b>Historic Parks and Gardens:</b> None affected</p> <p><b>Archaeology:</b> No known implications</p>
Archaeology (SAM etc.)	Not within a safeguarded area of archaeological potential
PROW (within or near site)	None
<p>Access (Highways)</p> <ul style="list-style-type: none"> <li>• Site access</li> <li>• Impact on wider highway network</li> <li>• Access to strategic/main highway network</li> <li>• Availability of public transport/walking/cycling</li> </ul>	<p><b>KCC Highways Comments:</b></p> <ul style="list-style-type: none"> <li>• No apparent serious problems, although a long walk to village facilities, train station etc.</li> </ul> <p><b>Officer comments</b></p> <ul style="list-style-type: none"> <li>• Site can easily access Ham Lane, which has good access to A20, Ashford Road</li> <li>• Continuous footpath from site to village centre – following Ham Lane</li> <li>• Bus stops opposite the site on Ham Lane</li> <li>• Residential properties on the western edges of the site would be far removed from village facilities etc.</li> </ul>

Access to services – distances from bus stop/rail station/shop/GP/school	<ul style="list-style-type: none"> <li>• Primary and secondary schools = &lt;500m</li> <li>• Village centre (shops) and train station = 1km</li> <li>• Medical centre and village hall = 1.2km</li> </ul>
Impacts on existing residential amenity (including access to open space)	Development of this site would have an impact on existing residents of Loder Close and Westwood Grange – particularly in terms of increased traffic (depending on access) and views to the open countryside.
Availability of utilities infrastructure – e.g. water/gas/electric	No issues
Air quality/noise	Not in an AQMA Noise unlikely to be an issue
Land contamination	Unlikely
Flood Risk (zone/drainage)	Not in Flood Zone 2 or 3
Suitability (assessment conclusion)	<p>The principle of further development west of Ham Lane has been established in the emerging local plan, through the allocation of a site immediately to the north (H1-31) and with the recent development of Westwood Grange. Furthermore, Lenham is allocated as a broad location for future growth (housing) in the emerging local plan – Policy H3 – mainly because the village is considered a sustainable settlement which can absorb more housing over the plan period.</p> <p>The site will not have a negative impact on traffic movements in the village, and will not have a detrimental impact on the setting of the AONB. It is my view that this is a suitable site for residential development.</p>

<b>3. AVAILABILITY</b>	
Is the whole site available for the proposed use: e.g. <ul style="list-style-type: none"> <li>• No existing uses</li> <li>• Willing landowner</li> <li>• Willing developer</li> <li>• Existing tenancy or lease agreement</li> </ul>	<ul style="list-style-type: none"> <li>• Willing landowner</li> <li>• Discussions ongoing with a number of developers</li> </ul>
Availability conclusion	Site is available

<b>4. ACHIEVABILITY</b>	
Identification of any abnormal costs or other constraints to development which would prevent or delay this site being delivered	None
Achievability conclusion	Site is achievable

<b>Timing (following assessment - when could the site be delivered?)</b>	
now – 2016	
2016 – 2021	x
2021 – 2026	
2026 – 2031	

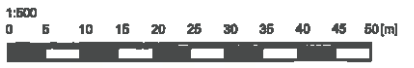
<b>5. CONCLUSIONS</b>	
The principle of further development west of Ham Lane has been established in the	

emerging local plan, through the allocation of a site immediately to the north (H1-31) and with the recent development of Westwood Grange. Furthermore, Lenham is allocated as a broad location for future growth (housing) in the emerging local plan – Policy H3 – mainly because the village is considered a sustainable settlement which can absorb more housing over the plan period.

The site will not have a negative impact on traffic movements in the village, and will not have a detrimental impact on the setting of the AONB. This is considered a suitable site for residential development – up to 40 dwellings.

**Accept site. But do not allocate as within then identified Lenham broad location**  
Yield = approx 40 dwellings

# APPENDIX 5



SITE PLAN AS PROPOSED Scale 1:500

Rev. A 2006 Plans 40-44 amended and Plan 45 omitted

Rev.	Date	Description

Being All dimensions, materials and workmanship to conform with BS81 standards and Building Regulations. Do not scale from this drawing. All dimensions to be verified with the finished works. All dimensions shown are standard unless otherwise stated.



Project  
**Loder Close**  
**Lenham**

Drawing Title  
**Site Plan**  
**As Proposed**

Scale	Date	Drawn	Approved
1:500@A1	21/02/15	PF	

Drawing No	Rev
WH-LC-003	A