

STATEMENT OF CASE OF MAIDSTONE BOROUGH COUNCIL

Town and Country Planning Act 1990 – Section 78 Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2020

APPEAL BY: Wates Developments

LOCATION: Land North of the A20, Ashford Road, Hollingbourne, Kent, ME17 1XH

PROPOSAL: Outline application for the erection a building for storage and distribution (Class B8 use) with a floorspace up to 10,788sqm (Gross External Area), ancillary offices, associated car parking, HGV parking, landscaping and infrastructure (All matters reserved except for access).

PINS Reference: APP/U2235/W/23/3329481

LPA Reference: 23/500899/OUT

Date: November 2023

1. INTRODUCTION

- 1.1. This Statement of Case addresses the reasons for refusal in respect of an outline planning application (with all matters reserved except for access) submitted by Wates Developments for the erection of a building for storage and distribution (Class B8 use) with a floorspace up to 10,788sqm (Gross External Area), ancillary offices, associated car parking, HGV parking, landscaping and infrastructure with access onto Ashford Road (A20).
- 1.2. The planning application was registered by the Council on 9th March 2023 and determined by delegated decision on 28th June 2023. Planning permission was refused for the three reasons set out in the decision notice and as set out at section 2 below.

2. REASONS FOR REFUSAL

- 2.1. The application was refused for the following three reasons:

- 1. There are no Maidstone Borough Local Plan 2017 policies that allow for major employment development outside of designated economic development areas, site allocations, or upon undeveloped greenfield land falling within the countryside. The proposals are therefore contrary to the Spatial Strategy (policy SS1) of the Maidstone Borough Local Plan and policy SP21 for the location of economic development.*
- 2. The development would cause significant harm to the character and appearance of the countryside and landscape within the local area through its site coverage and scale, further consolidation of development and urbanisation in the vicinity, and prominence in local views. It would also have a significant adverse impact on the setting of the Kent Downs AONB in views towards the scarp slope from Old Mill Road to the south. This would be contrary to policies SP17(1) and (4) and DM20(ii) of the Maidstone Borough Local Plan 2017, policy SD8 of the Kent Downs AONB Management Plan and paragraphs 174(a) and (b) and 176 of the NPPF.*

3. The off-site habitat biodiversity net gain proposed by the applicant has not been sufficiently demonstrated due to a lack of information to evidence that the off-site land is suitable to provide the habitat creation proposed. The proposals therefore fail to demonstrate the provision of a habitat net gain for biodiversity contrary to paragraph 174(d) of the NPPF.

2.2. In relation to reason for refusal 2, the reference to policy DM20 is an error and should refer to policy DM30(ii).

2.3. In relation to reason for refusal 3 the appellant has stated they will be submitting an updated 'Biodiversity Net Gain Report' to address this. The LPA awaits this report so reserves its position on this issue but will continue to work with the appellant and confirm whether it is considered this reason for refusal has been overcome as soon as possible.

2.4. The key issues in relation to these reasons for refusal are likely to relate to:

- 1. The principle of major commercial development on an unallocated site within the countryside.*
- 2. The need for the development.*
- 3. The impact upon the character and appearance of the area/landscape including the setting of the Kent Downs AONB.*
- 4. Whether an off-site 10% habitat net gain can be achieved and delivered.*

3. DESCRIPTION OF APPEAL SITE AND SURROUNDING AREA

- 3.1. The appeal site is a roughly triangular parcel of land to the north of the A20, Ashford Road and flyover; to the west of the A20/M20 junction 8 link road; and to the south/southeast of the dwelling 'White Heath' and a large commercial development under construction on Local Plan allocated site 'Woodcut Farm' – policy EMP1(4) of the Maidstone Local Plan 2017.
- 3.2 The site is 2.88ha in area, is an arable field, and generally slopes gently down from east to west. There are no trees or hedges within the site but there are some along parts of the boundaries on adjacent land.
- 3.3 The site falls within the countryside for Local Plan purposes. It lies just outside the Len Valley Landscape of Local Value (LLV) which runs along the south side of the A20 and the Kent Downs AONB is approximately 0.5km to the north. The site is considered to fall within the setting of the AONB. The appeal site, LLV, and AONB are shown together on the plan at **Appendix 1**.
- 3.4 There are a number of listed buildings in the local area the nearest being 'Old England Cottage' (GII) around 280m to the southeast and Woodcut Farmhouse around 560m northwest. Leeds Castle (GI) is around 1.9km to the southeast and the edge of its GII* listed grounds around 0.8km. The Eyhorne Street Conservation Area is around 0.7km to the east. There are five protected trees (3 oaks and 2 pines) just north of the site.

4. HISTORY OF THE APPEAL SITE

App No	Proposal	Decision	Date
22/505465	EIA Screening Opinion - Proposal: Up to 130,000 sq ft Gross Internal Area (GIA) B8 floorspace in a single-sided distribution warehouse unit with 12 dock level loading doors and 2 level access loading doors; 7,600 sq ft offices; HGV (38), car (103) and motorcycle (12) parking spaces; Secure yard with 300 sq ft gatehouse; Landscaping to create a physical and visual buffer.	EIA NOT REQUIRED	06/12/22
07/2092	Outline planning permission for the construction of hardstanding areas to form rail/road freight interchange with freight handling equipment, new railway sidings in part with acoustic enclosure, earthworks and retaining walls, buildings for Class B8 warehousing and Class B1 uses, access works, internal roads and bridges, loading and manoeuvring areas, car and lorry parking, ancillary truck-stop and gatehouse security facilities, electricity substation, realignment of public rights of way and watercourses, drainage works and landscaping with access to be considered at this stage and all other matters reserved for future consideration.	REFUSED & DISMISSED AT APPEAL	05/08/10
82/0888	Change of use to recreational land	REFUSED & DISMISSED AT APPEAL	07/09/83
72/0569	Outline application for garden centre	REFUSED	04/05/73

4.1. The appeal site has had four applications in the past. Two from 1972 and 1982 were for a garden centre and for 'recreational land' respectively and due to their age have little relevance to the appeal.

4.2. In 2007 a substantial outline application for a rail/road freight interchange with storage buildings was submitted, subsequently refused by the LPA, and dismissed at appeal by the Secretary of State in 2010 (LPA ref. 07/2092). This application was known as the 'Kent International Gateway' and included the appeal site at its eastern edge where development was shown on the masterplan. The overall development covered an area of 112ha and extended

approximately 2.5km northwest of the appeal site. Whilst some of the Inspectors conclusions on landscape impact and the setting of the Kent Downs AONB have some relevance, due to the sheer scale of this development in comparison to the appeal proposal, and as it pre-dates the adopted Local Plan and NPPF, it is not considered to be directly relevant to this appeal.

- 4.3. The remaining application is a Screening Opinion (LPA ref. 22/505465) for the appeal development whereby the LPA concluded an Environmental Impact Assessment was not required in December 2022.

Adjacent Planning History – Woodcut Farm Local Plan Allocation

- 4.4. The 'Woodcut Farm' Local Plan employment allocation site (policy EMP1(4)) is to the immediate north of the appeal site. Outline planning permission was originally granted in 2018 under application 17/502331 for a mix of office, light industrial, and warehouse uses with a maximum floor space of 45,295m².
- 4.5. Variations to the permission have since been approved allowing increases in the height and footprint of buildings and a separate application to extend the site beyond the allocation. Varied permission 20/505195 was implemented within the allocation, and now operating is 21/506790.
- 4.6. The full history is set out below:

App No	Proposal	Decision	Date
17/502331 Original Outline	Outline application for a mixed commercial development comprising B1(a), B1(b), B1(c) and B8 units, with a maximum floor space of 45,295 square metres (Access being sought) (Resubmission of 15/503288/OUT)	APPROVED	20/07/18
20/505195 Implemented Outline	Section 73 - Application for Variation of Condition 3 to allow buildings on the eastern part of the site to have a footprint up to 10,000sqm, and variation of Condition 4 to allow buildings on the western part of the site to have a footprint up to 4,800sqm, a ridge height up to 10.5m, and to remove the requirement for buildings to be	APPROVED	11/03/21

	orientated end-on to the M20 motorway pursuant to application 17/502331/OUT		
21/502637 Phase 1	Approval of Reserved Matters Phase 1 (Layout, Scale, Appearance and Landscaping) to create the development platforms across the entire site, and 23,270 sqm of flexible Use Class B1(c)/B8 employment floorspace, comprised of 7no. units on Plot A totalling 5,450 sqm (Units A3-A9) and 4no. units on Plot B totalling 17,820 sqm (Units B1-B4) pursuant of 20/505195/OUT	APPROVED	06/08/21
21/506791 Phase 2	Approval of Reserved Matters for Phase 2 (Appearance, Landscaping, Layout and Scale being sought) to create 7,916 sqm of flexible Use Class E(g)(iii)/B8 employment floorspace, comprising of 4 units (A1, A2, A3 and A13) on Plot A, pursuant of 21/506790/OUT	APPROVED	27/10/22
23/502387 Phase 3	Approval of Reserved Matters (appearance, landscaping, layout and scale being sought) for Phase 3 for creation of 8,597 sqm of industrial floorspace (Use Class B8), comprising of 3 units (A10, A11 and A12) pursuant to 21/506790/OUT.	APPROVED	08/09/23
21/506790 Outline now in Operation	Section 73 - Application for variation of condition 9 (office or research and development use floorspace) to require at least 7,500m ² of floorspace pursuant to 20/505195/OUT (Outline application for a mixed commercial development comprising B1(a), B1(b), B1(c) and B8 units, with a maximum floor space of 45,295 square metres)	APPROVED	22/09/22
21/506792 Extension of Site	Hybrid Planning Application for demolition of existing building (Use Class C3) and redevelopment for a mixed commercial scheme. Full planning application comprising of erection of 2 no. units (Unit E2 - light industry/B8 and Unit D1 - offices/coffee shop), HGV fast charge facility, bus stop, hard and soft landscaping, and associated infrastructure. Outline planning application comprising of erection of 1 no. unit (Unit E1 - offices) with appearance matter reserved.	APPROVED	22/09/22

4.7. This development is considered relevant being adjacent to the site in terms of the context for the appeal proposals.

5. DESCRIPTION OF PROPOSED DEVELOPMENT

- 5.1. The appeal proposal is an outline application for a storage and distribution (Class B8 use) building with a floorspace up to 10,788sqm, ancillary offices, car and HGV parking, landscaping and infrastructure with all matters reserved except for access. The only access would be in the western corner of the site with works proposed on the A20 to create a right turn lane from the east.
- 5.2. Whilst in outline, an illustrative master plan was provided showing a single building on the east part of the site with loading bays and circulation/parking areas in front on the west part. With the access proposed to the west and the scale of floorspace proposed, it is considered the development would have to be laid out in a similar manner to that shown on the illustrative master plan.
- 5.3. The Planning Statement accompanying the application states the development will comprise the following:
- Warehouse building to have a maximum external height of 15 metres
 - Maximum of 100 employee and visitor car parking spaces (6 disabled spaces)
 - 58 cycle spaces and 10 motorcycle spaces
 - HGV parking for a maximum of 40 vehicles (24 parking spaces and 16 docking bays)

6. STATUTORY REQUIREMENTS

- 6.1. In accordance with Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 this Appeal must be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 6.2. The Council's case is that the appeal should be dismissed in light of the clear and substantial conflict with the Development Plan, which is not outweighed by any other material considerations, including the National Planning Policy Framework.

7. DEVELOPMENT PLAN POLICY

7.1. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, the relevant Development Plan consists of the:

- Maidstone Borough Local Plan 2017-2031 (2017)
- Kent Minerals and Waste Local Plan 2013-30 (as amended by Early Partial Review (2020))

Maidstone Borough Local Plan 2017

7.2. The Maidstone Borough Local Plan sets out the Council's vision and strategy for the area and provides the basis for decisions on planning applications. It was adopted by the Council on 25th October 2017.

7.3. The following policies are referred to within the three reasons for refusal and are considered to be the most important policies in the determination of the appeal:

- Policy SS1: Maidstone Borough Spatial Strategy
- Policy SP17: Countryside
- Policy SP21: Economic Development
- Policy DM30: Design Principles in the Countryside

Kent Minerals and Waste Local Plan 2013-30 (as amended by Early Partial Review (2020))

7.4. The Kent Minerals and Waste Local Plan (KMWLP) was adopted by Kent County Council in September 2020.

7.5. Policies CSM5 and DM7 are relevant to the appeal and the proposals are not considered to be contrary to these policies or the KMWLP.

Local Plan Review Update

7.6. Maidstone Borough Council (MBC) is in the process of undertaking a Local Plan Review (LPR) which was submitted to the Secretary of State in March 2022. It has been the subject of a public examination over two stages of hearings in September-November 2022 (Stage 1) and May-June 2023 (Stage 2). Stage 1 considered matters of legal compliance, the amounts of development being planned for and the overarching strategy. Stage 2 considered site allocations, strategic policies not dealt with at Stage 1, and the various development management policies.

7.7. After the Stage 1 hearings the Inspector provided a letter in January 2023 which in summary concluded the Plan was not sound but could be made so subject to 'main modifications' relating to key strategic matters which he recommended as follows:

- The plan period extended by a year at either end to 2021 until 2038.
- The calculation of housing need is sound subject to an increase in the requirement based on the extended plan period.
- The inclusion of a stepped housing trajectory.
- The employment land floorspace requirement is sound subject to an increase based on the extended plan period.
- The spatial strategy for development is an appropriate strategy.
- Modifications are required relating to the removal of the 'Leeds Langley' area as a potential development location, matters relating to the two garden settlements at 'Heathlands' and 'Lidsing', and matters relating to Invicta Barracks.

7.8. MBC set out modifications to address the above matters and in his letter after the Stage 2 hearings the Inspector stated, "*Having considered the Council's proposed modifications together with statements and discussion with participants at the hearing sessions, I consider that the LPR could be made sound by main modifications.*"

- 7.9. The Council published the 'main modifications' (MMs) which the Inspector considers are necessary to make the Plan sound and a 6 week public consultation expired on 13th November 2023.
- 7.10. The LPR is therefore at an advanced stage having been through Examination with MMs the Inspector considers are required to make it sound sent out to public consultation. The Inspector must consider any responses to the MMs before issuing his Final Report and for these reasons it is considered the LPR currently has 'moderate weight'. The Council expects adoption of the LPR in early 2024.
- 7.11. The draft LPR does not affect the LPAs reasons for refusal in that the appeal site remains an unallocated parcel of land in the 'countryside' for Local Plan purposes.

8. NATIONAL PLANNING POLICY

- 8.1. At the national level, the National Planning Policy Framework 2021 (NPPF) constitutes policy to which the LPA must have regard.
- 8.2. The Maidstone Local Plan 2017 was tested at examination against the policies of the previous 2012 version of the NPPF and was found to be 'sound'. The appeal proposal was determined against the policies of the July 2021 version of the NPPF.
- 8.3. Sections of the NPPF most relevant to the appeal are listed below:
- Section 2: Achieving Sustainable Development
 - Section 4: Decision-making
 - Section 6: Building a Strong, Competitive Economy
 - Section 15: Conserving and Enhancing the Natural Environment
- 8.4. Related sections of the Planning Practice Guidance may also be relevant.

9. SUPPLEMENTARY PLANNING DOCUMENTS / OTHER RELEVANT DOCUMENTS

9.1. In addition to the NPPF, NPPG and the policies and provisions of the Development Plan, the following documents will be relied upon by the Council at Inquiry:

- Kent Downs AONB Management Plan (2021-2026)
- Maidstone Borough Landscape Character Assessment (2013)

9.2. A list of core documents will be agreed with the Appellant.

10. OTHER MATERIAL CONSIDERATIONS

10.1. The Council will also refer to relevant recent appeal decisions and case law. This will include reference to (but not exclusively):

- Cawrey Ltd v SSCLG and Hinckley and Bosworth BC, [2016] EWHC 198 (Admin)
- Crane v SSCLG and Harborough DC, [2015] EWHC 425 (Admin)
- Chalgrove Appeal Decision: Land off the B480, Chalgrove, Oxfordshire (2023) – APP/Q3115/W/22/3309622

11. THE CASE FOR THE COUNCIL

Reason for Refusal 1 – Principle of Development/Conflict with Spatial Strategy and the Need for the Development

There are no Maidstone Borough Local Plan 2017 policies that allow for major employment development outside of designated economic development areas, site allocations, or upon undeveloped greenfield land falling within the countryside. The proposals are therefore contrary to the Spatial Strategy (policy SS1) of the Maidstone Borough Local Plan and policy SP21 for the location of economic development.

- 11.1. It will be shown that the site is located outside of any defined area for employment and is therefore contrary to policies SS1 and SP21 which directs economic development towards defined settlements, designated economic development areas, allocated sites, or the suitable expansion of existing business premises in the countryside.
- 11.2 Policy SS1 outlines the Spatial Strategy for the Borough and seeks to focus development towards an expanded Maidstone urban area, with a secondary focus for (housing) development in 'rural service centres', and some further limited (housing) development at named 'larger villages'. In regard of employment it refers to the specific 'Woodcut Farm' allocation at Junction 8 to the north of the appeal site. The Woodcut Farm allocation is defined on the Local Plan Proposals Map and is shown on the plan at **Appendix 1**. It also states that small scale employment opportunities will be permitted at appropriate locations to support the rural economy.
- 11.4 Policy SP21 sets out how the Local Plan will support and improve the economy of the Borough and provide for the needs of business through the allocation of specific sites; the retention, intensification, and regeneration of designated economic development areas as defined on the policies map; and the same within the defined urban area and rural service centres. SP21 also supports the suitable expansion of existing business premises in the countryside but this is not applicable to the appeal as there is no existing businesses at the appeal site.

- 11.5 It will be shown that the appeal site does not fall within the boundaries of any of the defined areas for employment development under policies SS1 and SP21 of the Local Plan and therefore fails to comply with the Development Plan.
- 11.6 It will be demonstrated that the emerging LPR does not result in the site being either within a settlement boundary or allocated as an economic development site and that sufficient employment floorspace can be achieved on other allocated (or proposed allocated) sites/locations. The evidence for employment needs regarding the adopted Plan has been found sound and the needs have been met. The employment evidence for the emerging LPR accords with the NPPF and Planning Practice Guidance and has been accepted by the LPR Inspector, as has the emerging LPR strategy response to this need. Reference will be made to the employment evidence base for the adopted Local Plan and the LPR and these will be provided in the Core Document list.
- 11.7 It will be demonstrated that Local Plan policy DM37 (Expansion of Existing Businesses in Rural Areas) is not relevant to the appeal as it relates to existing business premises which do not exist at the site. If it was deemed relevant, it allows only for the 'sustainable growth and expansion of rural businesses, and that any new buildings are 'small in scale' and 'can be satisfactorily integrated into the local landscape', which the appeal proposal fails to comply with.

Reason for Refusal 2 – Impact on the Character and Appearance

The development would cause significant harm to the character and appearance of the countryside and landscape within the local area through its site coverage and scale, further consolidation of development and urbanisation in the vicinity, and prominence in local views. It would also have a significant adverse impact on the setting of the Kent Downs AONB in views towards the scarp slope from Old Mill Road to the south. This would be contrary to policies SP17(1) and (4) and DM30(ii) of the Maidstone Borough Local Plan 2017, policy SD8 of the Kent Downs AONB Management Plan and paragraphs 174(a) and (b) and 176 of the NPPF.

- 11.8 It will be demonstrated that the proposed development is contrary to Policies SP17 and DM30 of the Local Plan.
- 11.9 Policy SP17(1) confirms that development in the countryside will not be permitted unless it will not result in harm to the character and appearance of the area.
- 11.10 Policy DM30(ii) requires that impacts on the appearance and character of the landscape are appropriately mitigated, and that the suitability of development and required mitigation will be assessed through the submission of Landscape and Visual Impact Assessments (LVIA). Whilst not referenced in the reason for refusal it is noted that criterion (iv) requires that any new buildings are unobtrusively located and well screened by existing or proposed vegetation which reflect the landscape character of the area.
- 11.11 The Council's evidence will demonstrate the proposal does not comply with policies SP17(1) and DM30(ii) and (iv) because of the effects identified in the reason for refusal. It will also be demonstrated how the appellants LVIA underplays the landscape and visual impact of the development.
- 11.12 Paragraph 174(a) states that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes in a manner commensurate with their statutory status or identified quality in the development plan. On further consideration it is accepted by the LPA that the appeal site does not fall within a 'valued landscape' for the purposes of paragraph 174(a) and the LPAs case will not be based upon this paragraph.
- 11.13 Paragraph 174(b) states that decisions should recognise the intrinsic character and beauty of the countryside. The Council will be arguing that recognition implies a commensurate degree of protection.
- 11.14 It will be demonstrated that the appeal site makes a positive contribution to the character and function of the local landscape and countryside within which it falls.

11.15 It is anticipated the appellant will make a case that the development is not out of character with the local area due to the presence of the commercial development approved and under construction to the northwest within the 'Woodcut Farm' Local Plan allocation EMP1(4). It will be shown that it was accepted by the Local Plan Inspector within his 'Interim Findings Report' (relevant extracts attached at **Appendix 2**) and Final Report of the Examination of the Maidstone Local Plan 2017 (relevant extracts attached at **Appendix 3**), and the LPA in its assessment of the approved outline permission at the site (ref. 17/502331 and see Committee Report at **Appendix 4**), that this development causes adverse impacts upon the local landscape and setting of the Kent Downs AONB. Although the appeal proposal is in outline form, it will be shown how it will be out of character with the 'Woodcut Farm' development in terms of the scope for landscape mitigation and the scale of the proposed building.

11.16 Policy SP17 states that proposals should not have a significant adverse impact on the setting of the Kent Downs AONB and refers to the Kent Downs AONB Management Plan in its final paragraph. Paragraph 176 of the NPPF states that development within the setting of AONBs should be sensitively located and designed to avoid or minimise impacts upon them.

11.17 The Kent Downs AONB Management Plan has been prepared by the Kent Downs AONB Unit in accordance with Section 89 of the Countryside and Rights of Way Act 2000 (CROW). Under Chapter 3 (Sustainable Development) section 3.3 – Setting (page 29), it states, where the qualities of the AONB which were instrumental in reasons for its designation are affected by proposals in the setting, then the impacts should be given considerable weight in decisions. At paragraph 3.6 (Sustainable Development – Principles), principle SD8 is to ensure proposals do not negatively impact on the setting and views to and from the Kent Downs AONB.

11.18 It will be demonstrated that the appeal site falls within the setting of the Kent Downs AONB and that a key characteristic and quality of the AONB is the south facing scarp. It will be shown that the proposals will have a significant adverse

impact on the setting of the AONB being highly visible in, and obstructing views towards the North Downs scarp.

11.19 The principal visual impact of the development will be shown to be on local views, particularly from the A20, the A20 flyover, and from the vicinity of Old Mill Road to the south/southwest, the latter which is located within the Len Valley Landscape of Local Value (LLV).

11.20 In addition to these visual impacts, the Council will allege that the development would exacerbate existing intrusions into the setting of the AONB, such as lighting, traffic and perceptions of urbanisation.

11.21 It will be demonstrated that proposed landscaping would not sufficiently mitigate the impact of the development upon the local landscape and setting of the Kent Downs AONB.

Reason for Refusal 3 – Biodiversity Net Gain

The off-site habitat biodiversity net gain proposed by the applicant has not been sufficiently demonstrated due to a lack of information to evidence that the off-site land is suitable to provide the habitat creation proposed. The proposals therefore fail to demonstrate the provision of a habitat net gain for biodiversity contrary to paragraph 174(d) of the NPPF.

11.22 It will be shown that the proposed development is contrary to paragraph 174(d) of the NPPF.

11.23 Paragraph 174(d) states that planning decisions should contribute to and enhance the natural and local environment by providing net gains for biodiversity.

11.24 The appellant has chosen to demonstrate net gains for biodiversity through the Natural England Biodiversity Metric (version 3.1) and so aligning with the forthcoming requirements to provide 10% biodiversity net gain (BNG) under the Environment Act (2021). The LPA is supportive of this approach.

11.25 The appellant has demonstrated that a 12.36% net gain for (linear habitats) hedgerows is possible on site. For area habitats the appellant relies upon an off-site parcel of land around 4.8km southeast of the appeal site where they consider a 12.46% habitat net gain can be demonstrated.

11.26 At the time of determining the application, there was insufficient information to demonstrate this was achievable. A Technical Memorandum (SLR, May 2023) was submitted with the application regarding the off-site parcel and is attached at **Appendix 5**. The proposal for the off-site parcel was lowland meadow habitat in 'fairly good' condition. However, to demonstrate this is viable, the Technical Memorandum stated that soil sampling would be required to guide the best seed mixes, and to have '*more certainty that the recommended habitat will establish successfully*'.

11.27 It would also be necessary for the appellant to submit sufficient information to demonstrate that there are no other constraints that would likely limit the potential of the site to achieve the habitat objectives. For example, the presence of protected species such as reptiles. It would also be necessary for the appellant to submit the 'Biodiversity Metric Calculation Tool' in excel format and evidence regarding how habitat conditions have been assigned.

11.28 In the appellant's Statement of Case at section 4.3 it states, "*The third reason for refusal relates to a lack of a legal mechanism to secure 10% BNG. The appellant is confident that this matter can be addressed prior to the Inquiry and will work with the Council to address this matter.*" The appellant has confirmed they will be submitting an updated Biodiversity Net Gain Report but this has not been provided to date. In an email of 08/11/23 the appellant's agent confirmed the updated report,

"Reflects on the site's baseline, the 'off-site' baseline, the habitat changes following the development and recommendations for achieving BNG in excess of 10%. It will essentially seek to demonstrate to the LPA that BNG is deliverable via on-site and off-site mitigation. What is does over the report submitted with planning is includes the findings from additional surveys."

11.29 On this basis, the appellant continues to seek to demonstrate 10% habitat net gains via the off-site land under this appeal. The new assessment is yet to be submitted to the LPA so we reserve our position on this matter. Should the LPAs reason for refusal not be overcome it will be shown why the information set out at paragraphs 11.26 and 11.27 is required to demonstrate these net gains for biodiversity. However, the LPA will continue to work with the appellant in an attempt to resolve this matter prior to the Inquiry if possible.

12 PLANNING BENEFITS AND BALANCE

12.1 The Council acknowledges that the appeal proposal would give rise to planning benefits. These include:

- Up to approximately 130 FTE jobs and 80 indirect jobs from operation.
- An annual GVA of approximately £4.7 million.
- The provision of economic benefits in terms of construction jobs.

12.2 The weight of such benefits will be assessed in detail. The economic benefits will be delivered on existing and proposed allocated sites.

12.3 It will be argued that the proposal is in conflict with the Development Plan as a whole, that this attracts very substantial weight, and that this conflict is not outweighed by other material considerations.

13 PLANNING OBLIGATIONS AND STATEMENT OF COMMON GROUND

13.1 The appellant and the LPA are liaising on a s106 agreement in respect of a Travel Plan monitoring fee, and subject to the off-site biodiversity net gain being agreed, securing this for at least 30 years including its implementation, management and on-going monitoring.

13.2 These matters will be shown to accord with the tests as set out within the Community Infrastructure Levy Regulations 2015, namely that a planning obligation must be:

- 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.

13.3 The Proof of Evidence will contain a statement of compliance with Regulation 122 of the Community Infrastructure Levy Regulations 2015.

13.4 The Statement of Common Ground is nearing completion and will be submitted as soon as possible.

14 CONCLUSIONS

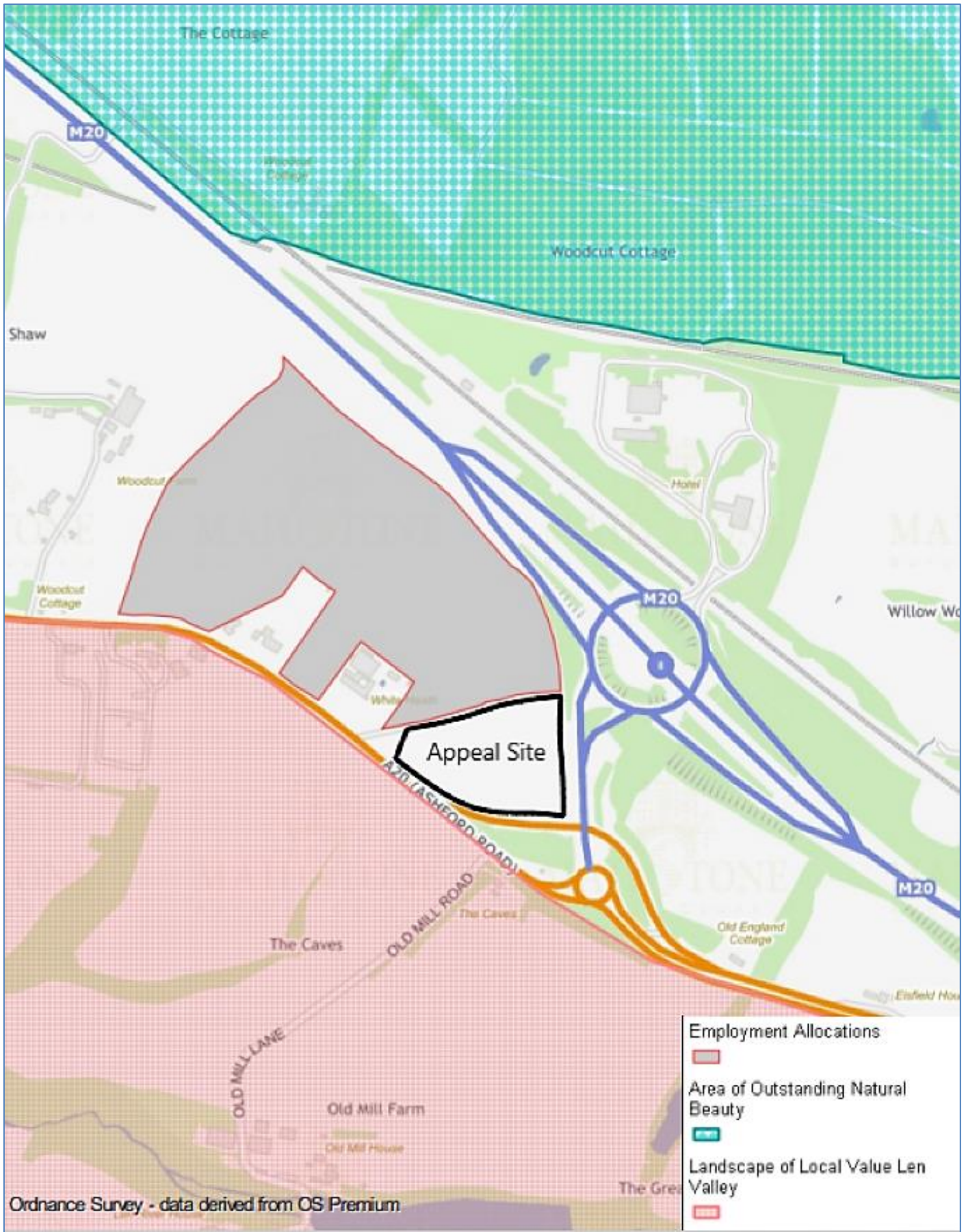
14.1 For the above reasons above, in the reasons for refusal, and in the officer's report, the appeal should be dismissed.

15 PLANNING CONDITIONS

15.1 A final set of conditions, without prejudice to whether the appeal should be allowed, will be agreed with the Appellant and submitted under the Statement of Common Ground.

Appendix 1

Plan Showing Appeal Site, Len Valley Landscape of Local Value, the Kent Downs AONB and Maidstone Local Plan Employment Allocation EMP1(4)



Appendix 2

Relevant Extracts Relating to Employment Allocation EMP1(4) from the Interim Findings Report from the Examination of the Maidstone Local Plan

INTERIM FINDINGS FROM THE EXAMINATION OF THE MAIDSTONE BOROUGH LOCAL PLAN

22 December 2016

Robert Mellor BSc DipTRP DipDesBEnv DMS MRICS MRTPI

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

The scope of these findings

This paper has been produced to address a number of main matters which have been discussed at examination hearings to indicate where main modifications may or may not be required to make the Plan sound. It does not cover every matter but it provides a broad overview. It is also intended to assist in identifying where further work may be needed to support an update of the proposed changes that have already been prepared by the Council and which will form the basis of draft main modifications to the Plan (to be supported by revised sustainability appraisal) which would then be subject to public consultation. Such main modifications are also likely to include additional and typically more detailed matters which have previously been the subject of changes proposed by Maidstone Borough Council. These have been the subject of discussion at Examination hearings.

These are interim findings only. Final and fuller conclusions on the matters and issues referred to below will be set out in the Final Report at the end of the Examination process.

Matter 1: Duty to Cooperate

Issue – Whether the Local Planning Authority and other relevant persons have complied with the Duty to Cooperate?

1. S33A of the P&CPA sets out a statutory 'Duty to Cooperate' (DtC) which here applies to Maidstone BC and other local planning authorities, to Kent County Council, and to other persons prescribed by Regulation 4 of the Town and Country Planning (Local Planning) England Regulations 2012 (the Regulations).
2. The duty requires those persons to cooperate with other persons to 'maximise the effectiveness' with which named activities are undertaken. Those activities include the preparation of development plan documents (such as this local plan) and activities that support that activity 'so far as relating to a strategic matter'. A strategic matter is defined by S33A(4) in summary as: (a) 'sustainable development or use of land that has or would have a significant impact on at least two planning areas' (a planning area in this case is the area of a borough or district council); and (b) 'sustainable development or use of land in a two tier area' (as this is) 'if the development

period. If sufficient sites cannot be identified then the matter would need to be pursued through the duty to cooperate.

98. The recommended smoothing of the trajectory should strengthen the 5 year supply position as at 1 April 2016. That many additional planning permissions have been granted since that date indicates that the 5 year supply should also be strong at 1 April 2017 and in subsequent years.

If the suggested changes to the allocations and broad locations are carried forward as main modification the housing trajectory would need to be amended pending any new allocations at the first review of the Local Plan. Spreading the existing backlog over the 10 years from 2016 to 2026 would allow for a more realistic rate of delivery of the allocations and provide steady employment in the construction industry as a contribution to the identified need for additional employment in the Borough.

Matter 4: Employment

Issue - Whether employment needs and existing supply have been appropriately assessed

99. National Planning Practice Guidance advises that the assessment of economic development needs should relate to the functional economic market area. The Economic Sensitivity Testing and Employment Land forecast 2014 [Document ECON 001] concluded that it is reasonable to define the functional economic area of Maidstone as focussed on the immediately surrounding districts. However whilst that document refers to a selection of plans and proposals in the adjoining targets and some of their targets for jobs and housing growth, it acknowledges that plans and proposals are being revised or finalised and could be subject to change. The Document does not contain any overall assessment of employment needs or provision across the neighbouring districts and does not relate employment growth to planned housing growth across that area in the light of commuting patterns.

100. MBC has issued an Employment and Retail Topic Paper 2016 [Document SUB 003] as supporting evidence for the Local Plan's employment policies. It explains that the Local Plan anticipates the creation of 14,400 jobs by 2031 in accordance with the aims of the *Maidstone Economic Development Strategy (2011-2031)* (EDS) [Document ORD 005]. This figure is derived

from the *Economic Sensitivity Testing and Employment Land Forecast Final Report (February 2014)* [Document ECON 001].

101. The Economic Development Strategy indicates what sectors are relied upon to deliver that jobs growth.

Issue - Whether employment trends are appropriately taken into account when assessing housing needs.

Issue - What are the implications of the housing and employment targets for cross-border commuting patterns

102. The Economic Development Strategy acknowledges that Maidstone Borough has moved from being a slight net importer of labour to a net exporter. Information provided to the examination on commuting patterns in the 2011 census indicates that the net daily outward flow from Maidstone to London is 5,834 and that there is a net daily inflow to Maidstone from other mid and west Kent authority areas of 3,844 persons. The strongest net daily flows include 2,008 persons from Maidstone to Tonbridge and Malling and 3,413 persons from Medway to Maidstone.

103. Table 33 of the *Strategic Housing Market Assessment* [Document HOU 002] acknowledges that employment growth in Maidstone could partly support housing demand in the Medway Towns, Tonbridge and Malling, Tunbridge Wells, Maidstone and Swale. It might have also referred to Ashford from which there is also a significant net daily inflow of commuters.

104. Table 33 sets out what was then known about Housing and Employment Growth policies in the nearby authorities (including Ashford). However 3 of the 6 authorities then had no employment growth target and the only recent targets for the period ending in 2031 were then in the Swale Draft Local Plan of 2013. The Swale housing target has since been increased. Some updated information was provided in the Borough Council's written statement for Session 8.

105. In the examination hearings attention has been drawn to how the Maidstone housing target may relate to the employment target. It has been pointed out that the 14,400 jobs target is acknowledged as ambitious and yet at a current estimated employment rate of 1.3 jobs per household it may fall short of the numbers of employed persons that might be accommodated by the new dwellings proposed in the Local Plan.

106. Relevant factors could include changes in average household size including more single person households, and an increase in the proportion of retired persons and households no longer participating in the labour market. These trends would affect existing as well as new households.
107. What remains unclear is what impact cross-border commuting between Maidstone and neighbouring areas (and London) would have on job provision.
108. There is evidence that where the adjoining authorities have assessed their employment needs they consider that they can meet their needs within their own areas and in most cases are proposing new employment allocations to that end. However there are apparent disparities between the authorities concerning the number of jobs and the amount of employment land that is being proposed relative to the intended growth in housing in each area. It is also unclear how each authority is taking account of the effect of net cross-border commuting flows. Where flows are currently in equilibrium and likely to remain so this may not matter. However where an authority is planning for particularly high or low rates of job growth relative to the anticipated change in population or housing this could result in sharp changes in commuting patterns.

It is necessary to establish both whether there is likely to be sufficient land overall to accommodate the employment needs and also what effect there may be on travel patterns, including net flows to London or elsewhere.

An assessment is therefore needed which updates the position on job targets and employment land provision in Maidstone and the adjoining Boroughs/Districts within the same economic area relative to the anticipated housing and population growth in those areas.

Issue – Whether the employment allocations are justified and consistent with national policy and whether they would be effective in terms of deliverability

109. Only part of the growth in employment would be in B class business floorspace amounting to 3,732 jobs with a further 4,200 jobs at the medical

campus being developed at Junction 7. The Employment and Retail Topic Paper [Document SUB 003] and Proposed Change PC/2 corrected the employment floorspace requirements set out in the submitted Local Plan at Table 4.4 and identified a need for 24,000sqm of B1a office floorspace, 6,500sqm of warehouse floorspace and -15,600sqm of industrial floorspace.

- 110.EMP1(5) Woodcut Farm is identified as a strategic site that is critical to address a qualitative and quantitative need for high quality business space, notwithstanding that it is acknowledged that it would have adverse landscape impacts and that one scheme for the site has been refused planning permission mainly on landscape grounds.
- 111.The Employment and Retail Topic Paper suggested that the identified need for 24,000sqm of office floorspace would be met with 16,000sqm at Woodcut Farm and 8,000sqm at Mote Road in Maidstone Town Centre. However there are evident viability issues with both sites such that neither site is now expected by the Council to deliver this much space. Provision may be as little as half the figure of 24,000sqm. The suggested identification of 3,000sqm of office floorspace at Maidstone East would only partially make up the anticipated shortfall.
- 112.The Syngenta site at Yalding has been identified for 8,640sqm of business space. However floodrisk issues and the necessary deletion of a housing allocation that would have assisted development viability also mean that site is unlikely to be delivered in that form.

Unless alternative provision is identified there is likely to be a shortfall in the delivery of office floorspace against the identified requirement. Alternative provision may involve mixing development with more lucrative land uses in the town centre.

In the town centre, reduced on-site parking requirements could improve viability where alternative parking and public transport are available.

Consideration should be given to safeguarding part of Woodcut Farm or other sites suitable for office development from other uses for a

period pending a recovery of office development values later in the plan period.

Matter 5: Transport and Air Quality

Issue: Whether the Local Plan is consistent with national policy in relation to air quality impacts.

113.Paragraph 110 of the National Planning Policy Framework provides amongst other things that in preparing to meet development needs, the aim should be to minimise pollution and other adverse effects on the local and natural environment.

114.An issue that has come to the fore during the Examination is that of air quality, especially in relation to road traffic emissions and their associated health impacts. This follows the intended quashing by the High Court of the National Air Quality Plan (AQP) and the direction that the Government should urgently replace it with a new plan by July 2017.

115.Maidstone town is designated as an Air Quality Management Area on the basis that air quality targets for Nitrogen Oxide emissions exceed limits set by an EU Directive and national regulations at a series of locations within the town. These locations include The Wheatsheaf junction and also Upper Stone Street which is part of the town centre gyratory and carries traffic towards the A274, A229(S), A20(E) and B2010.

116.An Air Quality Action Plan adopted for Maidstone in 2010 is referred to in the national AQP but has not yet succeeded in bringing emissions within the limits.

117.Whilst some have argued that the air quality issue warrants a moratorium on new development in the town, that would not solve the existing problem and would not be consistent with national policy. A solution is needed that both addresses the existing air quality problem and allows that the needs for housing and other development can still be met whilst minimising pollution.

118.The amount of emissions from road vehicles is affected by the number of vehicles and also by the means of propulsion. The number of vehicles is unusually high in Maidstone because of high levels of car use relative to

Appendix 3

Relevant Extracts Relating to Employment Allocation EMP1(4) from the
Final Report on the Examination of the Maidstone Local Plan



The Planning Inspectorate

Report to Maidstone Borough Council

by **Robert Mellor BSc DipTRP DipDesBEnv DMS MRICS MRTPI**

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

Date 27 July 2017

Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

Report on the Examination of the Maidstone Borough Local Plan

The Plan was submitted for examination on 20 May 2016

The examination hearings were held between 4 October 2016 and 24 January 2017

File Ref: PINS/U2235/429/8

Abbreviations used in this report

AONB	Area of Outstanding Natural Beauty
DCLG	Department for Communities and Local Government
dpa	dwellings per annum
DtC	Duty to Co-operate
GTTSAA	Gypsy and Traveller and Travelling Showpeople Accommodation Assessment
HMA	Housing Market Area
HRA	Habitats Regulations Assessment
KCC	Kent County Council
KMWLP	Kent Minerals and Waste Local Plan
LDS	Local Development Scheme
LP	Local Plan
MBC	Maidstone Borough Council
MM	Main Modification
MSA	Mineral Safeguarding Area
NPPF	National Planning Policy Framework
OAN	Objectively assessed need
OAHN	Objectively assessed housing need
ONS	Office of National Statistics
PPG	Planning Practice Guidance
PPTS	Planning Policy for Traveller Sites
PSED	Public Sector Equality Duty
SA	Sustainability Appraisal
SCI	Statement of Community Involvement
SFRA	Strategic Flood Risk Assessment
SHEDLAA	Strategic Housing and Economic Development Land Availability Assessment
SHMA	Strategic Housing Market Assessment
SNPP	Sub National Population Projections
WMS	Written Ministerial Statement

Non-Technical Summary

This report concludes that the Maidstone Borough Local Plan provides an appropriate basis for the planning of the Borough, provided that a number of main modifications [MMs] are made to it. Maidstone Borough Council has specifically requested me to recommend any MMs necessary to enable the Plan to be adopted.

The MMs all concern matters that were discussed at the examination hearings. Following the hearings, the Council prepared schedules of the proposed modifications and carried out sustainability appraisal of them. The MMs were subject to public consultation over a seven week period. In some cases I have amended their detailed wording where necessary. I have recommended their inclusion in the Plan after considering all the representations made in response to consultation on them.

The Main Modifications can be summarised as follows:

- **Strategy**
The creation of a Strategy Chapter in order to: incorporate strategic objectives that are present in various parts of the submitted Local Plan; fill gaps in the strategy; and to more clearly identify which are the strategic policies of the Local Plan.
- **Natural and Historic Environment**
A revised strategy for the natural environment and the historic environment to include the demerging of relevant development management policies on these matters for greater consistency with national policy.
- **Minerals Safeguarding**
The identification of minerals safeguarding areas in the recently adopted Kent Minerals and Waste Local Plan and the addition of requirements for minerals assessments where appropriate for consistency with national policy for minerals safeguarding.
- **Transport and Air Quality**
Modified policies to confirm and strengthen the use of sustainable transport measures as well as highway improvements in order to mitigate the potential impacts of additional movements on congestion and air quality. The development management policy on air quality is modified for clarity and effectiveness to include updated reference to other measures that are being pursued.
- **Housing Need and Supply**
The objectively assessed housing need is reduced and the backlog is to be addressed over 10 years in order to smooth the trajectory with a further review of housing needs to form part of the intended review of the Local Plan as set out in the submitted plan but with a target adoption date brought forward to April 2021.
- **South East Maidstone Strategic Development Location**
Modified policies in relation to transport mitigation, infrastructure provision, the setting of listed buildings, and open space.
- **Other South Maidstone Allocations**
Delete housing allocations H1(29) New Line Learning, Boughton Lane and H1(53) Boughton Lane due to their adverse traffic impacts on Boughton

Lane and the A229.

- **Policy H2 Broad Locations for Housing Development**

Modify the Broad Location policies to: increase housing provision in Maidstone town centre and further define its location within the town centre; reduce the proportion of the housing at the Invicta Barracks site that is likely to be delivered within the Local Plan period ending 2031; reduce the amount of housing that is likely to be delivered at Lenham and provide that its location is to be determined by the Lenham Neighbourhood Plan or, by default, the Local Plan Review.

- **Other Housing Supply**

A series of modifications to individual housing allocations and the windfall housing allowance to reflect new evidence.

- **Other Relevant Development Management Housing Policies**

Moving the Housing Mix Policy to the Strategy chapter whilst providing that Neighbourhood Plans can provide flexibility and local context in determining the appropriate housing mix.

Modifying the housing density policy for reasons of clarity and effectiveness.

Modifying the policy on Affordable Housing for consistency with modified national policy to exempt smaller developments.

Modifying the policy on Local Needs Housing in the interests of clarity and effectiveness.

- **Gypsies, Travellers and Travelling Showpeople**

Modifying Policy DM16 in the interests of effectiveness and consistency with national policy

- **Employment**

Modify the requirements for employment floorspace in the interests of clarity and effectiveness. To address viability issues it is necessary to modify where provision is to be made to meet the identified need for office floorspace allocations as well as including windfall provision. Modifying the policy for the strategic employment site at Woodcut Farm to reduce its impact on the landscape and on heritage assets whilst safeguarding office provision. Modifying policy for employment development in economic development areas in the countryside and for development involving the expansion of existing rural businesses.

- **Retail and Mixed Development**

Modifying relevant policies to clarify when retail impact assessments are or are not required for consistency with national policy. Remove the residential and employment allocation at the former Syngenta Works in Yalding for reasons of flood risk whilst retaining a policy to allow for other uses that can be shown to be compatible with that location. Add a new policy for the Baltic Wharf site to address a policy vacuum concerning the comprehensive approach to the future use of the site that has regard to the listed status of the principal building. Redefine the Mote Road site in Maidstone as a mixed use residential led allocation with a reduced requirement for office floorspace in order to address viability issues.

- **Other Development Management and Open Space Policies**

Allowing for the redevelopment of qualifying brownfield sites in the countryside with revised transport criteria whilst clarifying that residential gardens in the countryside do not qualify as brownfield land. Modifying policy for non-conforming uses in the interests of clarity and effectiveness. Modifying policy on external lighting to protect intrinsically dark landscapes

and wildlife. Providing that proposals for renewable and low carbon energy developments in the AONB would be addressed by AONB policies and not precluded which would be inconsistent with national policy. Modifying some open space allocations as a consequence of changes to housing allocations or where the original allocation is not justified.

- **Infrastructure Delivery**

Modifying misleading wording in the interests of effectiveness and providing that sufficient infrastructure is to be available in order for new development to be supported.

- **Implementation, Monitoring and Review**

Comprehensively modifying the monitoring provisions with new more specific and measurable targets and triggers for review.

Introduction

1. This report contains my assessment of the Maidstone Borough Local Plan in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate. It then considers whether the Plan is sound and whether it is compliant with the legal requirements.
2. The National Planning Policy Framework (paragraph 182) makes it clear that in order to be sound, a Local Plan should be:
 - **Positively prepared** – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;
 - **Justified** – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;
 - **Effective** – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and
 - **Consistent with national policy** – the plan should enable the delivery of sustainable development in accordance with the policies in the Framework'.
3. The starting point for the examination is the assumption that the local planning authority has submitted what it considers to be a sound plan. The Maidstone Borough Local Plan, submitted in May 2016, is the basis for my examination. It is the same document as was published for consultation in February 2016.

Main Modifications

4. In accordance with section 20(7C) of the 2004 Act the Council requested that I should recommend any main modifications [MMs] necessary to rectify matters that make the Plan unsound and thus incapable of being adopted. My report explains why the recommended MMs, all of which relate to matters that were discussed at the examination hearing(s), are necessary. The MMs are referenced in bold in the report in the form **MM1, MM2, MM3** etc, and are set out in full in the Appendix.
5. Following the examination hearings, the Council prepared a schedule of proposed MMs and carried out sustainability appraisal of them. The MM schedule was subject to public consultation for seven weeks (allowing extra time for bank holidays). I have taken account of the consultation responses in coming to my conclusions in this report and in this light I have made some amendments to the detailed wording of the main modifications. None of the amendments significantly alters the content of the modifications as published for consultation or undermines the participatory processes and sustainability appraisal that has been undertaken. Where necessary I have highlighted these amendments in the report.

Policies Map

6. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council is required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. In this case, the submission policies map comprises the set of plans in A3 format identified as one of the documents entitled 'Maidstone Borough Local Plan Publication (Regulation 19) February 2016' as set out in Document SUB 001 Maidstone Borough Local Plan 2011-2031.
7. The policies map is not defined in statute as a development plan document and so I do not have the power to recommend main modifications to it. However, a number of the published MMs to the Plan's policies require further corresponding changes to be made to the policies map. In addition, there are some instances where the geographic illustration of policies on the submission policies map is not justified and changes to the policies map are needed to ensure that the relevant policies are effective.
8. These further changes to the policies map were published for consultation alongside the MMs in Document ED 155 'Schedule of Minor Changes Plus Maps'.
9. When the Plan is adopted, in order to comply with the legislation and give effect to the Plan's policies, the Council will need to update the adopted policies map to include all the changes proposed in 'Maidstone Borough Local Plan Publication (Regulation 19) February 2016' and the further changes published alongside the MMs .

Consultation

10. I am satisfied that the consultation carried out has been in accordance with the regulatory provisions and the Statement of Community Involvement.

Assessment of Duty to Co-operate

11. Section 20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty to cooperate imposed on it by section 33A in respect of the Plan's preparation.
12. S33A of the Planning and Compulsory Purchase Act 2004 sets out a statutory 'Duty to Cooperate' (DtC) which here applies to Maidstone BC and other local planning authorities, to Kent County Council, and to other persons prescribed by Regulation 4 of the Town and Country Planning (Local Planning) England Regulations 2012 (the Regulations).
13. The duty requires Maidstone Borough Council to cooperate with other persons to '*maximise the effectiveness*' with which named activities are undertaken. Those activities include the preparation of development plan documents (such as this local plan) and activities that support that activity '*so far as relating to a strategic matter*'. A strategic matter is defined by S33A(4) in summary as: (a) '*sustainable development or use of land that has or would have a significant impact on at least two planning areas*' (a planning area in this case is the area of a borough or district council); and (b) '*sustainable development or use of land in*

MATTER 12 – ECONOMIC DEVELOPMENT AND EMPLOYMENT

Issue 21 - Whether the plan is positively prepared in that it is based on a strategy which seeks to meet an objectively assessed need for economic development, including any unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development.

Economic Development Needs

248. The NPPF provides that local planning authorities should use their evidence base to assess the needs for land or floorspace for economic development including both the quantitative and qualitative needs for all foreseeable types of economic activity over the plan period.
249. Paragraph 4.7 of the submitted Local Plan explains that the plan seeks a balance of sustainable housing and employment growth and that a forecast of 14,394 jobs growth across all employment sectors includes 3,732 jobs in the office, industrial and warehousing sectors and 4,200 at the Maidstone medical campus at Junction 7 of the M20. The other employment would come from sectors such as construction, retailing, leisure, care services, tourism and transport.
250. The Employment and Retail Topic Paper 2016 [Document SUB 003] explains that the Local Plan anticipates the creation of 14,400 jobs in Maidstone Borough by 2031 in accordance with the aims of the Maidstone Economic Development Strategy 2011-2031 (2015) (EDS) [Document ORD 005]. This figure is derived from the Economic Sensitivity Testing and Employment Land Forecast Final Report (February 2014) [Document ECON 001] (the ESTELF). This may be compared with the projected workforce growth of 17,300 persons over the plan period in the 2012-based ONS Sub National Population Projections. That suggests that there is headroom for additional employment provision within the Borough above the identified floorspace needs. If this is not delivered then there will be additional out-commuting, whether to neighbouring Boroughs within the functional economic area or further afield, including to London.
251. The jobs forecast was converted into a land requirement for those sectors that require new office, industrial or warehousing and distribution space between 2011 and 2031. However there are errors in Table 4.4 which seeks to set out the net floorspace requirement for offices, industry and warehousing.
252. Main modification **MM1** would include a corrected version of Table 4.4 which sets out an identified net quantitative requirement at 1 April 2016 for 24,600 sq m of office floorspace (Net Internal Area) and 7,965 sq m of warehousing space (Gross Internal Area) but a negative requirement for -18,610 sq m of industrial floorspace (GIA). However these figures do not translate directly into the amount of business floorspace required to be met by Local Plan allocations for reasons which are explained in the **MM1** modifications to the reasoned justification for Policy SS1. Specifically there is a qualitative need for new office, industrial, and storage floorspace which is additional to the identified quantitative needs. Supporting evidence for that conclusion includes the Economic Sensitivity Testing and Employment Land Forecast [Document ECON 001], the Qualitative Employment Site Assessment [Document ECON 002] and the Council's Economic Development Strategy 2015-2031 [Document ORD 005]. If floorspace provision exceeds the quantitative need then that should reduce the out-commuting that is otherwise likely to occur.

Functional Economic Market Area

253. Some representations query what account has been taken of the need for and supply of employment land in adjoining districts having regard also to commuting patterns.
254. National Planning Practice Guidance advises that the assessment of economic development needs should relate to the functional economic market area. The Economic Sensitivity Testing and Employment Land Forecast Final Report (February 2014) [Document ECON 001] (the ESTELF) concluded that it is reasonable to define the functional economic area of Maidstone as including the immediately surrounding districts.
255. In its assessment of needs the ESTELF referred to a selection of plans and proposals in the adjoining districts. It also included some of their targets for jobs and housing growth. However it acknowledged that the plans and proposals in those areas were being revised or finalised and could be subject to change. However the document did not arrive at any overall assessment of employment needs or of provision across the neighbouring districts.
256. The Council's Economic Development Strategy acknowledges that Maidstone Borough has moved from being a slight net importer of labour to a net exporter. Information provided to the examination on commuting patterns in the 2011 census indicates that the net daily outward flow from Maidstone to London is 5,834 persons and that there is a net daily inflow to Maidstone from other mid and West Kent authority areas of 3,844 persons. The strongest net daily flows include 2,008 persons from Maidstone to Tonbridge and Malling and 3,413 persons from Medway to Maidstone.
257. Table 33 of the Strategic Housing Market Assessment (the SHMA) [Document HOU 002] acknowledged that employment growth in Maidstone could partly support housing demand in the Medway Towns, Tonbridge and Malling, Tunbridge Wells, Maidstone and Swale. It might have also referred to Ashford from which there is also a significant net daily inflow of commuters to Maidstone.
258. Table 33 of the SHMA also sets out what was then known about Housing and Employment Growth policies in the nearby authorities (including Ashford). However 3 of the 6 authorities then had no employment growth target. The only recent targets for the period ending in 2031 were then in the Swale Draft Local Plan of 2013. The Swale housing target has since been increased.
259. My Interim Findings published in December 2016 [Document ED 110] advised that further work was then needed to:
- update the position on job targets and employment land provision in Maidstone and the adjoining Boroughs/Districts within the same functional economic area relative to the anticipated housing and population growth in those areas;
 - establish what effect there may be on travel patterns, including net flows to London or elsewhere; and to
 - establish whether there is likely to be sufficient land overall to accommodate the employment needs.

260. In response Maidstone Borough Council has since prepared an Employment Update [Document ED 118].

261. Some of the plans of the neighbouring authorities remain at an earlier stage and they relate to different time periods. Nevertheless there is evidence that where the adjoining authorities have assessed their employment needs they consider that they can meet their needs within their own areas. Most of the authorities are proposing new employment allocations to that end. Amongst other things the Employment Update concludes that:

- if the Local Plan housing and employment proposals are implemented, and if in-commuting to Maidstone remains constant as a proportion of employment, then there would be a deficit of about 1,300 jobs in Maidstone Borough which would potentially increase the level of out-commuting from the Borough by 4% over the plan period.
- across the functional economic area which comprises Maidstone and the adjoining boroughs there would be a 1% increase in out-commuting. This is likely to be absorbed by a continued increase in out-commuting to London and to other locations in Kent where significant jobs growth is expected.

Employment and Housing

262. The Employment Update Assessment was based on the housing requirement of 18,560 dwellings set out in the submitted Plan. As other main modifications would reduce this target by 900 dwellings to 17,660, the local jobs deficit should also reduce. But as an overall deficit is likely to persist with an associated increase in out-commuting the recommended reduction in dwelling numbers does not justify any reduction in the provision for employment within the Borough.

263. The Employment Update assumes that commuting patterns across Borough/District borders will remain the same notwithstanding the conclusion that there will be a modest overall increase in out-commuting. In practice individuals may make different choices about where they live and work and how they travel between home and work. This will be influenced by variable factors that include journey time, journey reliability, cost, and comfort or convenience.

264. The transport modelling that has been undertaken includes much of the development that is planned on both sides of the borders. But it cannot precisely predict changes in these choices which are based on too many variables. For example, people may move house, opt to work from home, or change jobs - whether to avoid a congested or expensive commute or in response to a change in public transport services or to changes made by their employers in working practices. In that respect the modelling should represent a worse case than that which would actually occur when people adapt their behaviour to react to changed conditions.

Conclusions on Economic Development Needs

265. I conclude that:

- The Local Plan is based on an appropriate and objective assessment of economic development needs and of the associated land and floorspace

requirements including both quantitative and qualitative needs. However for the plan to be sound main modification **MM1** is needed to correct errors in the tabulated figures and to amend the reasoned justification.

- The plan is positively prepared in that it is based on a strategy which seeks to meet an objectively assessed need for employment and associated infrastructure where it is reasonable to do so and consistent with achieving sustainable development.
- There is at present no identified requirement to address unmet needs from any adjoining authority and the Plan would make an appropriate contribution to identifying and addressing needs across the functional economic area.
- Employment trends have been appropriately taken into account when assessing housing and employment needs.
- The Plan has had regard to evidence of current commuting patterns but future changes may occur which cannot be reliably predicted.

Issue 22 – Whether the EMP employment allocations are justified and consistent with national policy and whether they would be effective in terms of deliverability

EMP1(1) Mote Road, Maidstone Town Centre

266. Policy EMP1(1) in the submitted plan proposes a site within the town centre at Mote Road for development of 8,000 sq m of office space in a building not exceeding 9 storeys in height. The town centre is the sequentially preferable location for office development and already has a substantial stock of office space. However much of the existing stock is unsuitable for modern needs. Whilst new modern stock is needed, the oversupply of older offices has contributed to the suppression of rental values. This should improve as older stock is converted to other uses, particularly flats, as envisaged by Policy H2(1).
267. The Council has accepted evidence that a purely office development would not currently be viable at Mote Road and is thus unlikely to be delivered. The allocation would thus be ineffective and unsound. The landowners have stated that the schemes most likely to be viable would be either 100% residential or a predominately residential development on the upper floors with a commercial element (retail, leisure or offices below). However the site is not within the defined shopping area. Moreover there is an identified need for offices and the town centre is the preferred location. Offices should therefore be the priority but mixed with sufficient residential accommodation for a viable scheme. Unless a minimum amount of office space is required then office space is likely to lose out in a mixed scheme to more profitable uses and the identified need would not be met.
268. Main modification **MM38** would therefore substitute new Policy RMX1(6) Mote Road, Maidstone for EMP1(1) in the submitted plan. The revised policy would allocate the site for mixed development to include at least 2,000 sq m office floorspace in a residential-led development. It would also delete a specific height limit. Height would instead be determined under general design policies in the Local Plan that apply to all development. The revised policy also allows for the inclusion of leisure uses in the mixed development.

EMP1(5) Woodcut Farm

269. EMP1(5) Woodcut Farm is identified in the submitted Local Plan as a strategic site that is critical to address both a qualitative and a quantitative need for high quality business space.
270. Policy EMP1(5) would allocate this site of 18.71ha by Junction 8 of the M20 on Ashford Road, Bearsted for up to 49,000 sq m of mixed employment (B1a; B1c; B2; B8) and a possible 'element' of hi-tech and or research and development B1(b).
271. Notwithstanding the proposed allocation, and contrary to the recommendation of its officers, in July 2016 the MBC Planning Committee resolved by 7 votes to 6 to refuse an application for planning permission for a similar development on the site as that proposed for allocation. This was an outline application for a mixed commercial development comprising B1(a), B1(b), B1(c) and B8 units, maximum floor space 46,623 square metres (access being sought at this stage) [Reference 15/503288]. The outline scheme did not require approval of details such as scale, layout, external appearance or landscaping.
272. The reason for refusal dated 6 July 2016 is:

'The proposed development would be harmful to the character and appearance of the countryside, Special Landscape Area and the setting of the Kent Downs Area of Outstanding Natural Beauty and any benefits are not considered to outweigh this harm. It would also cause less than substantial harm to the setting of the Grade II listed building "Woodcut Farm" and any public benefits are not considered to outweigh this harm. The development would therefore be contrary to saved policies ENV21, ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and advice within the National Planning Policy Framework 2012'.

273. Notwithstanding that decision (which is the subject of a current appeal to the Secretary of State) the Council has confirmed during the Examination that the allocation should be retained.

Woodcut Farm Development Mix

274. The Employment and Retail Topic Paper had suggested that the identified need for 24,000 sq m of office floorspace would be met with 16,000 sq m of offices at Woodcut Farm and 8,000 sq m at Mote Road in Maidstone Town Centre. However there are evident viability issues with both sites such that neither site is now expected by the Council to deliver this much space.
275. The indicative scheme for which planning permission was refused by the Council would have included only about 5,360 sq m of offices. That would have left a substantial shortfall against the 16,000 sq m of office space anticipated by the Topic Paper.
276. The **MM39** modifications to the Woodcut Farm allocation policy include amended reasoned justification. Whilst the need for additional high quality office space is supported by the strongest evidence of quantitative need and by evidence of qualitative need, there is also evidence to the Examination that there are significant viability issues with developing stand-alone office space. That is especially true in the town centre but also applies at other sites on the edge of

the urban area. Thus it is unlikely that development would come forward at this location for a development that is mainly or exclusively for office use. A mixed development of business space stands a better chance of supporting such development by sharing the costs of landscaping, access, and other infrastructure provision, whilst also providing floorspace to address the quantitative and/or qualitative needs for different types of employment. Following negotiation with the site agents the Council now concludes that a minimum of 10,000 sq m (NIA) of office floorspace can be expected to be provided at Woodcut Farm during the Local Plan period.

277. The remainder of the allocation would be available for industrial and storage uses. In that regard there is an identified qualitative need for new sites in locations with good access to the motorway network. This is notwithstanding that there is anticipated to be a net loss of industrial floorspace across the Borough as older sites in less functionally suitable locations are redeveloped for other purposes.
278. That need for employment floorspace here has been exacerbated by the need to delete the RMX1(4) Former Syngenta site at Hampstead Lane, Yalding as a mixed residential and employment allocation owing to flood risk issues (see below). That site would have provided 8,600 sq m of employment floorspace. Whilst the **MM36** modifications to Policy RMX1(4) would not preclude some employment development coming forward on that site in the future, the flood risk constraints and the absence of residential development make its development much more challenging such that it cannot be relied upon. Viability issues have also reduced the potential contribution of office development at the EMP1(1) Mote Road, Maidstone site from 8,000 sq m to 2,000 sq m (see above).

Woodcut Farm Landscape

279. The submitted Local Plan deletes from this and other parts of the Borough the former Special Landscape Area designation that was referred to in the 2016 refusal. The site lies close to but outside the Kent Downs AONB boundary. It is within the setting of the AONB. However in important views from the scarp it would lie beyond both the M20 motorway and the HS1 high speed railway line. Those features already intrude into the rural landscape and have their own visual and noise impacts on the setting of the AONB such that the impact of the development would be more marginal than if those features were not present.
280. The Kent International Gateway (KIG) was an earlier development scheme for a Strategic Rail Freight Interchange with 374,000 sq m of floorspace on a very much larger (112ha) site that included the 18.7ha of the proposed allocation. That site extended much further to the west towards the built up area of Bearsted. Permission was refused by the Secretary of State, partly on the grounds of substantial harm to the landscape and to the setting of the Kent Downs AONB [Document ORD 029]. As the development would not have functioned well for its intended purpose as a Strategic Rail Freight Interchange the Secretary of State concluded that the identified harm would not have been outweighed. However the scale of development now proposed in the allocation is very much reduced. It would consequently have a much lesser impact in the landscape. Moreover, unlike the KIG, the Woodcut Farm development would serve a different and more local identified need.

281. My attention has also been drawn to the more recent appeals at Waterside Park [Document ORD 011]. That site lies to the south of the A20 and is closer to Leeds Castle. Two planning applications for alternative industrial developments were refused and the subsequent appeals dismissed. This was also in part because the harm to the landscape, to visual amenity and to the setting of the AONB again was not outweighed by the economic benefits of that scheme. However that proposal would have required considerably more site excavation on a more sloping site and there would have been less opportunity for landscape mitigation than at Woodcut Farm.
282. The 2016 refusal of planning permission for the scheme on the proposed allocation site was partly on the grounds of landscape impact. I conclude that additional design and layout measures are needed in Policy EMP1(5) to further mitigate the landscape and visual impacts of the development. The modifications recommended below would include such measures.
283. As mitigation would be unlikely to negate all of the adverse impact the development would still have adverse landscape impacts. That residual impact needs to be accorded substantial weight when weighed with the economic benefits of the scheme.

Woodcut Farm Heritage Assets

284. There is Grade II listed farmhouse at Woodcut Farm. The SHEDLAA acknowledged that development could potentially affect its setting and the MBC Planning Committee cited less than substantial harm to its setting as a reason to refuse outline planning permission for a development similar to that proposed in the allocation.
285. In relation to heritage assets, the Secretary of State also accorded some weight to the effect of that larger KIG scheme on heritage assets at Bearsted. However the proposed allocation is well removed from those assets and would not have such effects. Notably the Secretary of State did not identify any harm to the setting of Leeds Castle and its Park of that scheme. The current proposal would be of much smaller scale than the KIG scheme and no closer to that heritage asset.
286. The Waterside Park appeals were dismissed in part because of expected harm to the setting of heritage assets including the Registered Park which surrounds the nearby Grade 1 listed Leeds Castle and which contributes to its setting. However the identified harm to the heritage assets related mainly to direct views of the Waterside Park development from the Registered Park and from the entrance to the Grade II* Registered Park. The Waterside Park development would have been on raised ground to the south of the A20. However the Woodcut Farm site is set further from both Leeds Castle (3km) and its Park (1.5km) on lower land north of the A20 and south of the M20. The engineering works and land uses associated with the A20, the M20 and the HS1 railway line have all radically affected and eroded the historic landscape. Improved screening means that it would be unlikely to feature prominently in direct views.
287. The Waterside Park Inspector was not persuaded by arguments that visitors to Leeds Castle would be deterred because they may be driving past an industrial park on their way to the Castle (if approaching from the west). Neither do I consider that visitors would be deterred by passing a business park development

at Woodcut Farm, further to the west and beyond the junction between the A20 and the M20. Nor do I consider that the setting or significance of any designated or undesignated heritage assets other than Woodcut Farmhouse would be materially affected.

288. I conclude that design and layout modifications to Policy EMP1(5) are needed to minimise the potential for harm to the setting and heritage significance of Woodcut Farm House. Any residual harm to setting merits considerable weight and importance when it is weighed with the public benefits of the development.

Alternative sites for a strategic economic development

289. A number of Representors have argued during the examination that there are alternative sites which they would prefer to Woodcut Farm and that the Woodcut Farm site is consequently not part of the most appropriate strategy.
290. Some consideration was previously given to alternative sites during the Waterside Park Inquiry. In particular, the Waterside Park appeal Inspector considered whether that industrial development proposal could be located elsewhere either within the Borough or (under the duty to cooperate) within the wider local area.
291. She acknowledged that there did appear to be a need for more employment land allocations but was unable to then conclude on the evidence before her that it would be necessary to allocate land in the countryside. The Inspector noted that she had been referred to both the Detling Aerodrome site (also known as Binbury Park) and to the Aylesford Print Works site (in Tonbridge & Malling Borough) as potential alternative development locations. However she did not endorse those locations.
292. Further evidence has been provided during the examination in relation to those alternative site locations which was not before the Waterside Appeal Inspector. This includes the Sustainability Appraisal of the submitted Local Plan and the proposed modifications, the conclusions of the Strategic Housing and Economic Development Land Availability Assessment (SHEDLAA), the Employment and Retail Topic Paper, and also subsequent evidence concerning sites in other Boroughs. In particular, Tonbridge & Malling has made its own assessment of employment land needs arising in that Borough and has not identified any surplus to meet needs arising in other areas such as Maidstone. Moreover the owners of the Aylesford Print Works are promoting a mixed development which would reduce the land available for employment there and that is said to be justified on viability grounds.
293. Detling Aerodrome lies within the Kent Downs AONB where national policy (NPPF Paragraph 116) provides that planning permission for major development should be refused except in exceptional circumstances. In particular there should be an assessment of the scope for developing outside the designated area. Whilst that text refers to planning permission rather than a development allocation the impact of development on the special qualities of the AONB would be the same. In this case there is obvious scope to develop instead at Woodcut Farm which lies outside the AONB. Whilst Woodcut Farm lies within the setting of the AONB, the impact on the landscape and scenic beauty of the AONB would be less than if the development were instead to be located within the designated area. The Woodcut Farm site is thus to be preferred.

294. I agree with the conclusions of the Council that Woodcut Farm remains the most appropriate strategic location to address the objectively assessed quantitative and qualitative need for additional employment land, notwithstanding the residual harm (even after mitigation) to the landscape (including to the AONB setting), to visual amenity and to the setting of the listed Woodcut Farmhouse. There is a lack of evidence that any alternative development site of comparable scale, or multiple sites, would have less impact in these regards and still deliver comparable benefits.

Benefits

295. The principal public benefits are economic and in particular the provision of significant local employment opportunities for a growing population within the Borough, thereby reducing the need to travel outside the Borough for work. The associated economic activity would also have significant economic benefits and there would be opportunities for businesses to relocate from locations and premises that are less suitable for their needs. This would accord with national policy objectives to create economic growth by planning proactively to meet the development needs of business.

Conclusions on Woodcut Farm

296. I conclude that the public economic benefits merit considerable weight and that they outweigh the residual harm after mitigation to the landscape (including the setting of the Kent Downs AONB) and visual amenity and the less than substantial harm to the setting of Woodcut Farm House that could result, depending on the final scheme design.

297. However the recommended main modifications to EMP1(5) Woodcut Farm in **MM39** are needed to: ensure that sufficient office floorspace is effectively delivered; to minimise the landscape and visual amenity impacts of development on this green field site in accordance with national policy to protect the character and landscape of the countryside and the AONB; and to reduce the potential for harm to the setting of the listed Woodcut Farmhouse, also in accordance with national policy for the protection of heritage assets. **MM39** also includes the minerals assessment criterion requested by the Minerals Planning Authority as a safeguarding measure for consistency with national policy.

298. Those modifications are necessary for the Woodcut Farm employment allocation to be justified and consistent with national policy and to be effective in terms of deliverability.

Issue 23 – Whether the plan is otherwise consistent with national policy and positively prepared and effective so as to make adequate provision for development for employment

299. The NPPF includes objectives to seek to meet identified needs for development, including employment, and to secure economic growth and a prosperous rural economy.

300. In the submitted plan, in addition to the site allocations, Policy DM21 'Retention of Employment Sites' lists a number of established sites to be designated as 'Economic Development Areas' which are to be protected for employment use. It also sets out criteria for changes to other uses within these areas. However it

fails to provide criteria for new development for business on these sites or to clarify that such development can in some circumstances be permitted on Economic Development Area sites that are in the countryside where development may otherwise be more restricted. This would hamper the provision of necessary development for business including small businesses and would fail to support the rural economy. The plan would therefore neither be positively prepared nor consistent with Government policy.

301. Main modification **MM51** would make specific provision to permit redevelopment for business use and infilling within Economic Development Areas (whether in the countryside or otherwise) and adds design criteria for developments in the countryside so as to mitigate their impacts. This would allow such areas to make an appropriate contribution to the economy.
302. In the submitted plan Policy DM41 'Expansion of existing businesses in rural areas' is a criteria-based policy for development at rural businesses in the countryside. It provides in summary that where there would be significant adverse impacts on the rural environment and amenity from the expansion of rural businesses they should instead relocate to a designated Economic Development Area or to within the Maidstone Urban Area or a Rural Service Centre. However it goes on to provide that where there are no significant adverse impacts or relocation 'cannot be achieved' then expansion will be permitted subject to stated criteria. However the policy is vaguely worded and is likely to be difficult to interpret and consequently ineffective. A more logical and effective sequence would be to allow limited expansion subject to criteria and then, if these criteria cannot be met, to encourage relocation to an Economic Development Area or to within a defined settlement. Other alternatives would need to be argued on the basis of an exception to policy.
303. Main modification **MM56** would modify Policy DM41 on the above lines in order for it to be consistent with national policy and positively prepared and effective and thereby sound.

Overall Provision for Business Floorspace

304. With the necessary modifications to the EMP policies above and the RMX policies below, the Plan would make adequate provision to meet or exceed the identified net requirements for business floorspace. The provision for industrial and warehousing floorspace would comfortably exceed the requirement and would provide developers and employers with a choice of locations. Meeting the identified need for office floorspace is likely to be more difficult for reasons of viability. However with the recommended modifications adequate provision of office floorspace can be met by provision at Woodcut Farm, Maidstone East, Mote Road (subject in each case to revised floorspace figures) together with an allowance for windfall provision on unidentified sites.
305. The provision for windfall office development is supported by evidence included in the Employment Update (ED 118) which examined past provision from this source. It excludes existing commitments and thus provision for the first 3 years from 2016-2019 and would approximate to 717 sq m for each of the remaining 12 years of the plan period.
306. With the recommended modifications office provision in the Borough would comprise:

- 10,000 sq m at EMP1(4) Woodcut Farm (renumbered from EMP1(1));
- 4,000 sq m as part of allocation RMX1(2) Maidstone East and Royal Mail Sorting Office);
- 2,000 sq m at updated policy number RMX1(6) Mote Road (as part of a mixed housing-led development and renumbered from EMP1(1));
- and the remaining 8,600 sq m as windfall development on unidentified sites.

MATTER 13 – RETAIL AND MIXED DEVELOPMENT/TOWN CENTRES

Retail and Mixed Development

Issue 24 - Whether the plan strategy seeks to meet an objectively assessed need for retail and mixed development and is effective and consistent with national policy for town centres

307. The National Planning Policy Framework provides amongst other things at Section 2 that local planning authorities should define a network and hierarchy of centres and also define the extent of town centres and primary shopping areas (based on a clear definition of primary and secondary shopping frontages in designated centres). They should then apply a sequential approach to the location of 'main town centre uses' (which are defined in the Glossary, as is edge of centre development). However this approach is not to be applied for applications for small scale rural offices or other small scale rural development.
308. Outside of town centres an impact assessment for retail, office and leisure developments should be required when they are not in accordance with an up to date local plan. A locally set threshold should exclude smaller developments from that requirement and, in the absence of such a local threshold, the default is 2,500 sq m of floorspace.
309. Policy DM17 - Town Centre Uses seeks to apply a sequential approach to the location of main town centre uses. There is no provision in the policy to exempt small scale rural offices or other development. Policy DM17 also requires an impact assessment for retail, office or leisure proposals outside of an existing centre. However no local threshold is included. Additional accessibility criteria are included for edge of centre or out of centre development.
310. Main modification **MM50** is needed for effectiveness and for consistency with national policy. It would modify Policy DM17 Town Centre Uses and its reasoned justification to include a 2,500 sq m threshold below which the sequential test would not apply. Small scale rural offices and other development would also be excluded under set criteria. Policy DM17 would be renumbered due to other changes.

Appendix 4

LPA Committee Report for Application 17/502331 –
Woodcut Farm Employment Allocation EMP1(4)

REPORT SUMMARY

REFERENCE NO - 17/502331/OUT			
APPLICATION PROPOSAL Outline application for a mixed commercial development comprising B1(a), B1(b), B1(c) and B8 units, with a maximum floor space of 45,295 square metres (Access being sought) (Resubmission of 15/503288/OUT)			
ADDRESS Land At Woodcut Farm, Ashford Road, Hollingbourne, Kent, ME17 1XH			
RECOMMENDATION – APPROVE subject to conditions and Section 106 agreement			
SUMMARY OF REASONS FOR RECOMMENDATION			
<ul style="list-style-type: none"> • The outline proposals are for a maximum floor space of 45,295m² of B1(a), B1(b), B1(c) and B8 units. This complies with policy EMP1(4) of the Maidstone Borough Local Plan (2011-2031) for the site which allows for up to 49,000m². • The outline proposals allow for compliance with the criterion under Local Plan policy EMP1(4) relating to layout; design; landscaping; ecology; and transport. (The specific details of which would be considered under future reserved matter applications and conditions will ensure compliance with relevant criterion). • The access to the site (the only specific matter being considered at this stage) is acceptable. • Heritage impacts would be very low and would be outweighed by public benefits. • Conditions would ensure appropriate mitigation of any outward impacts of the development. • A legal agreement will secure necessary master planning, environmental, transport, and floorspace delivery/safeguarding requirements as required by policy EMP1(4). • The proposals are in accordance with the Kent Minerals & Waste Local Plan. • The economic benefits will be extensive and the number of new jobs created substantial. • The primary policy EMP1(4) in the newly-adopted Local Plan is met in all respects, and other material considerations do not point to a refusal, therefore planning permission should be granted. 			
REASON FOR REFERRAL TO COMMITTEE			
<ul style="list-style-type: none"> • Councillor Garten has called the application to Planning Committee for the reasons outlined below. • Hollingbourne Parish Council raises objections and requests consideration at Planning Committee for the reasons outlined below. 			
WARD North Downs	PARISH Hollingbourne	COUNCIL	APPLICANT Roxhill Developments Ltd AGENT Barton Willmore
DECISION DUE DATE 15/12/17	PUBLICITY EXPIRY DATE 08/11/17	OFFICER SITE VISIT DATE 22/09/17 & other dates	
RELEVANT PLANNING HISTORY			
App No	Proposal	Decision	Date
15/503288	Outline application for a mixed commercial development	Refused	06/07/16

	comprising B1(a), B1(b), B1(c) and B8 units, maximum floor space 46,623 square metres. (Access being sought at this stage).	(Decision currently under appeal)	
07/2092	(Larger KIG Site – 113 hectares) Outline planning permission for the construction of hardstanding areas to form rail/road freight interchange with freight handling equipment, new railway sidings in part with acoustic enclosure, earthworks and retaining walls, buildings for Class B8 warehousing and Class B1 uses, access works, internal roads and bridges, loading and manoeuvring areas, car and lorry parking, ancillary truck-stop and gatehouse security facilities, electricity substation, realignment of public rights of way and watercourses, drainage works and landscaping with access to be considered at this stage and all other matters reserved for future consideration.	Refused & Appeal Dismissed	05/08/10
07/0682	(Larger KIG Site – 113 hectares) Scoping opinion sought in respect of an environmental assessment to be submitted in relation to a proposed rail freight interchange with associated development.	N/A	03/05/07
91/0908	Outline Application for erection of buildings for Multiscreen Cinema, Tennis Centre, Function Suite/Disco, Ten Pin Bowling, Cattle Market, Restaurants, 60 Bedroom Hotel, Service Station, Railway Station, Sports Stadium, Athletics Track, All Weather Pitch with ancillary car and coach parking.	Refused	12/11/91

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 The red line application site is an irregular shaped parcel of arable farm land with an area of approximately 19 hectares that lies immediately west of junction 8 (J8) of the M20 motorway. The application also shows two areas of land outlined in blue (being adjoining land within control of the applicant) on the west edges of the site that would be planted with trees/managed, and this will be discussed in more detail below. Under the site allocation policy EMP1(4), only 40% of the site can be developed with buildings so the potential developed area would be less than 19ha. The site is around 1.25km east of the urban boundary of Bearsted in the Local Plan 2000 and 5.7km east of Maidstone town centre.

1.02 Along the northern boundary is the M20 with the High Speed railway (HS1), J8 service station and the Ashford to Maidstone railway line beyond; to the eastern boundary is the J8 roundabout and its slip roads; along the south eastern boundary is Musket Lane, a narrow track which provides agricultural access to the site; along the southern boundary is the A20 (Ashford Road) and two residential properties; and along the west boundary is further farmland and a number of residential properties including the Woodcut Farm complex of buildings.

- 1.03 The M20 is elevated above the site to the north, and the application site itself generally rises from the A20 on the south side in north eastwards and north westwards directions but with a dip in the centre where there is a small stream. The southern edge is approximately 49m Above Ordnance Datum (AOD), the north eastern corner 58m AOD, and the highest north western corner is at 68m AOD. The 'blue land' to the north west (proposed to be wooded) is even higher at a maximum of 70m AOD. The site boundaries are formed by a mix of trees and hedges varying in density. Beyond the site to the north, the land begins to rise to the steep scarp slope of the Kent Downs, and generally beyond to the west, south, and east the land is undulating.
- 1.04 The two dwellings adjoining the south edges of the site are 'Chestnuts' and 'White Heath' and there is a car wash/garage facility that adjoins part of the south boundary. On the south side of the A20 are a caravan site and a garage/car sales site. To the north west is the Woodcut Farm complex, set at a higher level with a private driveway (over which PROW KH641 runs) providing access from the A20. There are also around six other dwellings here including Woodcut Farmhouse a Grade II listed dwelling.
- 1.05 There are no local landscape designations affecting the site. The Kent Downs Area of Outstanding Natural Beauty (AONB) is north of the M20 and the Ashford to Maidstone railway line. At its closest point the AONB is within approximately 120m of the application site. It is considered that the application site falls within the setting of the AONB. There is also a local nature reserve to the north of the railway line around 130m from the site boundary at its closest point.
- 1.06 The site does not contain any designated heritage assets but there are a number within the vicinity, the closest being the Grade II listed Woodcut Farmhouse 80m to the west of the site. The Hollingbourne/Eyhorne Street Conservation Area, which features a number of listed buildings is around 710m to the east, and Leeds Castle (Grade I) and its Grade II* listed grounds (which features other listed buildings) are around 2km and 1km to the south east respectively.
- 1.07 There are no public footpaths running through the site but some within the local area. There are 5 protected trees (Oak and Scots Pine) along the south east boundary of the site with Musket Lane. A Council Agricultural Land Classification Study (November 2014) reveals the site to comprise a mixture of Grades 2 and 3a and therefore falls into the 'best and most versatile' category.

2.0 BACKGROUND

- 2.01 An outline application for a mixed commercial development comprising B1(a), B1(b), B1(c) and B8 units, (with only access considered) was recommended for approval by officers in summer 2016 but was refused by Planning Committee for the following reason:

"The proposed development would be harmful to the character and appearance of the countryside, Special Landscape Area, and the setting of the Kent Downs Area of Outstanding Natural Beauty and any benefits are not considered to outweigh this harm. It would also cause less than substantial harm to the setting of the Grade II listed building 'Woodcut Farm' and any public benefits are not considered to outweigh this harm. The development would therefore be contrary to saved policies ENV21, ENV28, and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and advice within the National Planning Policy Framework 2012."

- 2.02 This application is currently under appeal with the Planning Inspectorate, and the Public Inquiry is scheduled to start on 6th February 2018.
- 2.03 The main difference from that application is a reduction in overall maximum floorspace by 1,328m². Since the decision to refuse that application, the new Local Plan was adopted on 25th October 2017, which allocates the site for commercial development, the detail of which will be discussed below.
- 2.04 (The full policy is attached at Appendix 1)

3.0 PROPOSAL

- 3.01 This is an outline application for a mixed commercial development comprising uses of B1(a), B1(b), B1(c) and B8 units, with a maximum floor space of 45,295 square metres. (For clarity, B1(a) use is offices, B1(b) is research and development, B1(c) is light industry, and B8 is storage and distribution.)
- 3.02 Being an outline application, consent is sought for the principle of this maximum amount and type of uses. The only specific detail for which consent is sought at present is the access to the site. The specific details of the layout of the site and buildings, the appearance and size of the buildings, and the site's landscaping would be decided at a future date under 'reserved matters' applications.
- 3.03 Under consideration now, there would be one main access to the site off the A20 between the dwellings 'Chestnuts' and 'White Heath'. Two emergency access points would be provided onto Musket Lane at the east end, and the A20 at the west end of the site.
- 3.04 Whilst an outline application, an illustrative masterplan has been provided showing one way the site could be developed (as is common place for major applications). In addition, what are called 'Parameter plans' covering matters such as building areas/plots; building heights; landscaping, access roads; and watercourses are also provided (as required under the EIA Regulations) but these simply show the maxims tested under the application (or worst case scenario), and are not for detailed consideration.
- 3.05 So to re-iterate, the detailed layout, height, appearance etc. is not being considered at this stage and the master plan is purely illustrative. It will be for future reserved matters applications to determine the final details of layout, scale, appearance and landscaping.
- 3.06 As mentioned above, there are two parcels of land adjoining the west of the site (outlined in blue). The larger north western parcel of land (6.5ha) would be retained as woodland pasture (agricultural, horticultural or forestry use) with new tree planting and this is proposed to be secured through a Section 106 agreement, including long term management. The other parcel of land (2.4ha) to the west would be planted up with trees, proposed to be secured under condition.
- 3.07 The construction programme outlines that the first plots will be constructed simultaneously along with the supporting infrastructure, while the other plots will be developed afterwards. The construction programme is anticipated to span approximately 12 to 24 months and is expected to commence in 2018 (subject to gaining planning permission) and the first plots are scheduled for completion in 2019, with the rest of the construction being occupier led and taking approximately a further two years to complete (2021).

- 3.08 Further detail on the proposals will be discussed in the relevant section of the assessment below.
- 3.09 The application has been amended since its original submission largely in response to consultee response on the application. Full re-consultation and advertisement was carried out on the amended information and this expired on 8th November.
- 3.10 The application is accompanied by an Environmental Statement in line with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended).

4.0 POLICY AND OTHER CONSIDERATIONS

- **Maidstone Borough Local Plan (2011-2031):** SS1, SP17, SP18, SP21, SP23, EMP1, EMP1(4), DM1, DM2, DM3, DM4, DM6, DM8, DM21, DM23, DM30
- **National Planning Policy Framework (NPPF)**
- **National Planning Practice Guidance (NPPG)**
- **Kent Minerals & Waste Local Plan 2013-2030**
- **The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended)**
- **Kent Downs AONB Management Plan (2014-2019)**
- **Draft MBC Air Quality Planning Guidance (2017)**

4.0 LOCAL REPRESENTATIONS

- 4.01 **Local Residents:** 53 representations (21st Nov) received from local residents (including from the Crismill Lane Residents Association) raising the following (summarised) issues:

- Harm to the landscape.
- Harm to the setting of the AONB.
- Contrary to Local Plan policy.
- Greenfield site.
- Loss of agricultural land.
- Harm to wildlife.
- Entirely speculative proposal.
- No proven need for the development.
- Doubt as to delivery of economic benefits.
- Staff will come from other areas and not Maidstone.
- Suitable alternative brownfield sites in and outside the Borough.
- Won't employ large numbers.
- Not served by public transport and car dependant.
- Dangerous access.
- Traffic, congestion and disruption on local roads.
- Noise and disturbance.
- Air quality and pollution.
- Overshadowing, overlooking/loss of privacy.

Planning Committee Report

- Poor outlook.
- Flood risk.
- Harm to heritage assets.
- Archaeology.
- Lack of infrastructure.
- Negative impact upon tourism including Leeds Castle.
- Contrary to KIG decision.
- Risk of groundwater pollution.
- Light pollution.
- Harm to quality of life.
- Does not meet sustainability aims of the NPPF.
- Precedent.
- Inadequate overnight HGV parking will lead to parking on local roads.

4.02 **(Ward) Cllr Garten:** *“The above application is based in my ward. As you may be aware, this is a politically controversial application. Therefore, should officers be minded to grant this application under delegated powers, I would like to call in this application to Planning Committee.”*

4.03 **Cllr Springett (Bearsted Ward):** Raises the following (summarised) points:

- Traffic data appears out of date.
- Dangerous access.
- Congestion for local villages.
- Modal shift will be difficult to achieve.
- Construction traffic.
- Contravenes Local Plan (2000)
- Contravenes new Local Plan (2000)
- Contravenes NPPF – landscape, pollution, unsustainable.
- Does not meet policy EMP1(4) – not parkland setting with substantial landscaping; general lack of landscaping; significant excavation.
- Impact upon air quality on M20 in AQMA.
- Application should be refused.

4.04 **Hollingbourne Parish Council:** Object and request Planning Committee consideration for the following (summarised) reasons:

- Detrimental to AONB
- More suitable existing commercial/industrial locations exist, notably at Detling Airfield;
- In-adequate local infrastructure to cope with increased traffic movements;
- Potential danger caused to the local community caused by influx of heavy goods vehicles.
- Speculative application.

4.05 **Leeds Parish Council (neighbouring):** Object for the following (summarised) reasons:

- Contrary to KIG decision.
- Congestion, traffic and highway safety.
- Harm to landscape and AONB.
- Noise and air pollution.

4.06 **Thurnham Parish Council (neighbouring):** Object for the following (summarised) reasons:

- Contrary to KIG decision.
- Congestion and traffic.
- Harm to landscape and AONB.
- Noise and Air pollution.
- Harm to ecology.
- Adverse impact upon cultural heritage including Leeds Castle setting.
- Contrary to NPPF.

4.07 **Bearsted Parish Council (neighbouring):** Object for the following (summarised) reasons:

- Contrary to KIG decision.
- Harm to landscape and AONB.
- Congestion and traffic.
- Not in keeping with cultural heritage.
- No benefit to local residents.
- Noise and Air pollution.
- Light pollution
- Harm to ecology.

4.08 **Detling Parish Council (neighbouring):** Object for the following (summarised) reasons:

- Harm to environment.
- Congestion and traffic.
- Impact on natural resources including water.
- Harm to local residents.

4.09 **Joint Parishes Group (15 Member Parishes):** Objects for the following (summarised) reasons:

- Impact upon aquifer and local rivers/streams.
- Traffic and congestion.
- Harm to landscape and AONB.
- Adverse impact upon cultural heritage.
- Air quality.
- Light pollution.
- Noise.
- Harm to ecology.
- Contrary to KIG decision.

4.10 **CPRE Maidstone:** Objects strongly to the application for the following (summarised) reasons:

- No need for development and would not meet job needs of the Borough.
- Harm to AONB and countryside.
- Air pollution.
- Would not provide quality development as envisaged in policy.
- Contrary to NPPF.
- Site is within setting of the AONB.

- Waterside Park dismissed appeal grounds are applicable and KIG appeal is relevant.
- Any approval would undermine Waterside Park dismissal and would open the way for further development.
- Public opinion is against the site.
- Raise concerns re. air quality specifically referring to a recent High Court Judgement on air quality, have questioned Environmental Health's response, and query impacts upon the AQMA.

4.11 **Kent Downs AONB Unit:** Strongly objects to the application and concludes by saying: *"It is considered that the proposed development would result in the introduction of an urban form and activities that are out of character with the local landscape and would neither conserve nor enhance this part of the setting of the AONB. The mitigation measures proposed would not reduce the impact to an acceptable level."*

4.12 **Leeds Castle Foundation:** Make reference to Historic England's original comments on the application.

4.13 **Kent Wildlife Trust:** Raise no objections subject to conditions to mitigate and manage ecological impacts.

4.14 **The Bearsted & Thurnham Society:** Raises objections on issues relating to the greenfield site; unsustainable and isolated; congestion; harm to the countryside, AONB, Leeds Castle, and Woodcut Farmhouse; speculative;

5.0 **CONSULTATIONS**

(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)

5.01 **Highways England: No objections.** *"Highways England considers that proposals for the development of land at Woodcut farm, as submitted, are unlikely to represent a 'severe' impact on safety, queues or delays on the Strategic Road Network. Hence we have no objection"*

5.02 **Environment Agency: No objections** subject to conditions covering land contamination and to prevent pollution of the underlying aquifer and groundwater.

5.03 **Historic England: No objections** in so far as this relates to the effect upon Leeds Castle and its associated landscape and advise that the impact upon its setting would be negligible.

5.04 **Natural England: Raises objection** based on the proposals significantly and detrimentally impacting on the AONB and its setting. (Their comments are partly based on the illustrative plans submitted with the application).

5.05 **KCC Highways (Highway Authority): No objections** subject to conditions or a legal agreement securing:

- The proposed off-site highway improvements to Ashford Road including the site access junction, pedestrian refuge, footway/cycleway and bus stop alterations;
- The provision, by way of a Section 106 Agreement, of financial contributions towards

improvement of the A20 Ashford Road/Willington Street junction, improvement of the no.10X bus service and monitoring of the Travel Plan; and

- Implementation of a site-wide Travel Plan, Construction Management Plan, measures to prevent the discharge of surface water onto the highway, wheel washing facilities, securing vehicle and cycle parking spaces, securing vehicle loading/unloading and turning facilities, and completion and maintenance of the accesses

5.06 **KCC (Local Lead Flood Authority): No objections** subject to a condition requiring the detailed design of sustainable surface water drainage including details of implementation, maintenance and management; and no infiltration subject to agreement.

5.07 **Kent County Council (Planning Authority): Raises strong objection** based on the following (summarised) grounds:

- Clear conflict with the MBWLP 2000, the Kent Minerals & Waste Local Plan and the NPPF.
- The absence of a robust economic needs case and reliance on the draft Maidstone Local Plan evidence base which lacks understanding of business needs in the functional economic area.
- The range of adverse landscape and visual impacts including on the setting of the Kent Downs Area of Outstanding Natural Beauty;
- Harm to the setting of Grade I listed Leeds Castle and its Grade II* listed registered park and garden, and the Grade II Listed Building (Woodcut Farmhouse);

5.08 **KCC Minerals & Waste:** Do not agree with conclusions of Minerals Assessment and request further clarification on matters.

5.09 **MKIP Environmental Health: No objections** subject to conditions relating to noise and air quality emissions reduction.

5.10 **MBC Conservation Officer: Raises objection** based on harm to the setting of Woodcut Farmhouse (Grade II). *"It is considered that the harm caused to the setting of Woodcut Farm is less than substantial and should be weighed in the overall planning balance."*

5.11 **MBC Landscape Officer:** Considers the key principles of the LVIA are generally acceptable.

5.12 **KCC Archaeology: No objections** subject to condition archaeological field evaluation works and any necessary safeguarding measures.

5.13 **KCC Ecological Advice Service: No objections** subject to conditions relating to a GCN survey report and mitigation strategy (if required); precautionary bat mitigation measures; precautionary mitigation measures relating to reptiles; biodiversity method statement, Ecological Design Strategy for enhancements; and a LEMP.

5.14 **Southern Water:** Advise that there is currently inadequate capacity in the local network to provide foul drainage and that, *"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 requested (by the developer) and provided to drain to a specific location.”

5.15 **Southern Gas Networks:** High pressure pipeline restrictions must be followed.

5.16 **Kent Police:** Recommend a condition to ensure crime prevention is addressed appropriately in the detailed design.

6.0 **APPRAISAL**

Main Issues

6.01 The site is allocated within the Local Plan under policy EMP1(4) for up to 49,000m² of mixed employment floorspace (B1a; B1b; B1c; B2; B8 uses). The text to the policy outlines that, *“office type uses (B1a & b) will be a vital component of this mix and the site will provide at least 10,000m² of B1a/B1b floorspace as an absolute minimum.”* The Inspector at the Local Plan Examination in considering the identified need for 24,000m² of office space across the Borough recognised that Woodcut Farm could not realistically deliver all of this floorspace (due to viability reasons) but could deliver a high proportion of it. He stated in his Final Report,

“Whilst the need for additional high quality office space is supported by the strongest evidence of quantitative need and by evidence of qualitative need, there is also evidence to the Examination that there are significant viability issues with developing stand-alone office space.

...Thus it is unlikely that development would come forward at this location for a development that is mainly or exclusively for office use. A mixed development of business space stands a better chance of supporting such development by sharing the costs of landscaping, access, and other infrastructure provision, whilst also providing floorspace to address the quantitative and/or qualitative needs for different types of employment.

...The remainder of the allocation would be available for industrial and storage uses. In that regard there is an identified qualitative need for new sites in locations with good access to the motorway network. This is notwithstanding that there is anticipated to be a net loss of industrial floorspace across the Borough as older sites in less functionally suitable locations are redeveloped for other purposes.”

6.02 As such, the adopted policy secures a minimum of 10,000m² of B1a/b floorspace, and for 5,000m² of this to be provided with vehicular access and to be serviced to promote early deliver. In addition, in the event that B1a/b floorspace is not being delivered in the early stages of the new Local Plan, the policy ring-fences the 10,000m² until 2026 (or until otherwise allocated through a Local Plan review) for B1a/b uses so it cannot be developed for alternative uses during that period. This would allow time for potential recovery of office development values if necessary.

6.03 The application proposes up to 45,295m² of mixed employment floorspace (B1(a), B1(b), B1(c) and B8 units) and confirms that at least 10,000m² will be B1a/b floorspace. This accords with the headline requirements of the policy and therefore the main issues relate to the following matters:

- Design & Layout

- Landscape & Ecology
- Heritage
- Access, Highways & Transportation
- Archaeology & Minerals
- Any Other Matters

Layout

6.04 The application is in outline form and so the specific details of layout, scale, and appearance of the development would be considered at the reserved matters stage. However, conditions can be set to guide the reserved matters. In terms of layout, the site policy EMP1(4) has a number of criterion and requires (in summary):

- The proposals to create a spacious parkland setting for development.
- Landscape buffers and the use of substantial tracts of planting extending into the body of the development to achieve clear visual separation between individual buildings and between parking areas.
- Buildings not covering more than 40% of the developed site area.
- Larger footprint buildings in the field to the east of the stream up to a maximum unit size of 5,000m² with units orientated end-on to predominant views to and from the AONB.
- Smaller footprint buildings in the field to the west of the stream up to 2,500m² footprint.
- On the highest part of the site (NW corner above the 55m contour line) building footprints limited to 500m².
- Development to respect the topography of the site by minimising the need for site excavation.
- The siting, scale and detailed design of development having regard to the preservation of Woodcut Farmhouse (Grade II) and its setting.
- An area of 9ha to the north and northwest of Woodcut Farm secured as an undeveloped landscape area in the form of open woodland including the addition of a landscape buffer of at least 30m along the eastern boundary.

6.05 Whilst not being considered, the illustrative masterplan shows that a spacious development with buildings covering less than 40% of the site is achievable. It also shows significant landscape buffers around the boundaries of the site and alongside the stream, with new waterbodies creating landscaping within the centre of the site.

6.06 This demonstrates that landscape buffers as per the allocation policy could be achieved in addition to the 9ha of land in the northwest corner that would be secured as woodland pasture. This would enable the creation of a well landscaped and parkland setting to the development in line with the allocation policy but it is considered vital that structural landscaping coming into the development areas and to divide buildings and parking areas is necessary in order to comply with the site policy and to fully achieve the 'parkland setting'. This would not only improve the layout but also further reduce the impact of the development in wider views from outside the site. This would be secured by condition to set the parameters of any reserved matters applications and to ensure policy compliance.

6.07 The application indicates larger buildings not exceeding 5,000m² to the east of the stream with buildings orientated end-on to the AONB, and smaller units not exceeding

2,500m² to the west in line with policy, and this can be secured by condition to set the detail under reserved matters applications.

- 6.08 In terms of topography, the proposals would require remodelling of the land to facilitate the development. This would be limited to the extent necessary for buildings and drainage. This would be done as a cut and fill exercise, reusing spoil and material where necessary and practicable. It is stated that there will be no net removal of spoil from the site during construction. The details generally show cutting levels in the NW corner and west edge (between 1m-3.5m) and raising in the SW corner and near the centre of the site (between 1-3m). It is considered that this would strike an appropriate balance between developing the allocated site and minimising the amount of excavation. A condition can be applied to follow these principles.
- 6.09 With regard to the listed 'Woodcut Farmhouse', the specific siting, scale and detailed design of development is not being considered at this stage, however, the illustrative plan shows space between the 'A' plots to the SE of the farmhouse and buildings to the east of the farmhouse would be on excavated ground and therefore lowered. There is an existing view past the farmhouse from its access road towards the site and spacing here would serve to limit the impact upon its setting. Again, structural landscaping in this area could also help to lessen any impact on this heritage asset as inferred under the site policy. I consider the impact upon the listed building's setting could be minimised through a sensitive layout and landscaping, which would be dealt with at the reserved matters stage.
- 6.10 For the above reasons, the outline proposals are not considered to show any conflict with criterion 1-9 of policy EMP1(4) in terms of layout and could comply with relevant criterion within policy DM1 (Principles of Good Design). The detailed layout would be considered at a later stage, and parameter conditions can be imposed to ensure delivery of key aspects (as outlined above) at this stage.

Design

- 6.11 In terms of design, policy EMP1(4) requires (in summary):
- Building ridge heights not to exceed 12m to the east of the stream.
 - Graded building heights taking account of the site's topography with building ridge heights not to exceed 8m to the west of the stream.
 - Development designed to limit its visual impact including through the use of curved roofs on buildings, non-reflective materials, sensitive colouring, green roofs and walls on smaller footprint buildings (500m² and below), and sensitive lighting proposals.
 - Buildings including active frontage elements incorporating glazing, and address both the A20 and M20.
- 6.12 The application details indicate that buildings on the east side of the site would have a maximum ridge height of 12m, and buildings on the west side a maximum of 8m, which complies with the policy, and can be secured by condition. Where applicable, eaves heights would obviously be slightly lower.
- 6.13 Whilst the detailed design of buildings is not being considered at this stage, the Design & Access Statement (DAS) outlines the current thinking on design and this follows the principles of the site policy including curved roofs, non-reflective materials, sensitive colouring, green roofs and walls on smaller footprint buildings, and sensitive lighting proposals. The DAS recognises that warehousing and light industrial buildings have a

relatively generic specification which reflects general occupier requirements. However, it outlines that office elements on the warehouse and light industrial buildings could be used as a separate form to the front of the main building, predominantly glazed to provide attractive frontages to the buildings. Additional materials could be used to create contrast and local identity in specific locations, such as around entrances, offices or vista stops. This is in line with achieving 'active' and glazed building frontages to address both the A20 and M20 in line with policy. The use of vernacular materials such as ragstone could also provide a quality appearance to elements of buildings, walls etc. Again, conditions can be used to set parameters on the appearance of any buildings

- 6.14 In terms of sustainability credentials, it is outlined that the development would achieve a BREEAM 'Very Good' standard and would include the use of photovoltaic cells incorporated into the design of the roofs. This can be secured by condition and would be in accordance with policy DM2 (Sustainable Design).
- 6.15 Overall, whilst the detailed design is not being considered at this stage, it is considered that the applicant's illustrative proposals and DAS demonstrate a commitment to achieve the aims of the policy and that the outline proposals would not conflict with criterion 1-9 of policy EMP1(4) with regard to design and could comply with relevant criterion within policy DM1.
- 6.16 Criterion 8 & 9 require a minimum of 7,500m² floorspace to the east of the stream and 2,500m² to the west of B1a and B1b floorspace to be protected from any other uses until April 2026 (or until otherwise allocated through a local plan review). This is to ensure the site substantially contributes towards meeting the employment needs for this floorspace, and this is protected, in line with the Local Plan. The outline application allows for this, and this can be secured under a legal agreement.
- 6.17 In addition, criterion 8 requires land sufficient for at least 5,000m² of this floorspace (to the east of the stream) to be provided with vehicular access and all necessary services including drainage and electrical power supply to the boundary of the plot/s prior to the first occupation of any units falling within Use Classes B1c, B2 or B8. This is to promote early delivery of such uses and again the outline application allows for this, and this can be secured under a legal agreement.

Landscape & Ecology

- 6.18 Policy EMP1(4) requires (in summary):
- Proposals are designed to take into account the results of a landscape and visual impact assessment (LVIA) which will specifically address the impact of development on views to and from the Kent Downs AONB escarpment. This will include environmental enhancements of the wider landscape beyond the allocation boundaries through financial contributions using the mechanism of a S106 agreement.
 - Proposals designed to take account of the results of a phase 1 habitat survey and any species specific surveys that may as a result be necessary, together with any necessary mitigation and significant enhancement measures.
- 6.19 The application is accompanied by a LVIA which the Council's landscape officer concludes is acceptable. The LVIA includes assessment of the impact of the development from 15 viewpoints in the local area. The conclusions of the LVIA are summarised as follows:

7.293

“The views from the neighbouring higher ground, particularly those within the Kent Downs AONB, are of higher sensitivity to change. However, due to the intervening distance or the effect of intervening landform and vegetation, the magnitude of impact upon these views tends to be low. Impacts upon receptors which are closer to the Application Site tend to be of a greater magnitude but these receptors tend to be of lower sensitivity to change.”

7.294

“The two key exceptions are the predicted effects upon receptors represented by viewpoints 8 and 9. These viewpoints relate to receptors on the footpath to Woodcut Farm and on those within dwellings adjacent to the Application Site to the west and south. The proximity of the viewpoints to the Application Site means that the proposed buildings will form notable elements which will obstruct longer distance views towards the countryside beyond. The resulting predicted effects on these receptors are major/moderate adverse and are considered to be significant. Moderate adverse effects were also predicted on receptors represented by viewpoint 3 which includes walkers on the PRow on the edge of the Kent Downs AONB.”

7.295

“All the predicted impacts and effects will be adverse in nature as the Proposed Development will result in the introduction of large buildings which will be out of scale and context with much of their surroundings and will not contribute to local character.”

6.20 In terms of mitigation, it advises as follows:

7.307

“In addition to the proposed buildings, the proposed masterplan (Appendix 7.3) includes large areas of tree and shrub planting between and around the buildings, and an extensive area of traditional grazed parkland and open woodland to the east, north and north west of Woodcut Farm. This planting will be in keeping with the surrounding landscape structure and will reinforce landscape character. It will also contribute to the greening and screening of the M20 corridor as highlighted within the published landscape character assessments. The woodlands and planting belts will take time to mature but the use of large scale native tree species will ensure that the visual impact of the Proposed Development will reduce significantly over time. A notable example of this is the nearby Maidstone Motorway Service Area at Junction 8 of the M20. The Maidstone Motorway Service Area includes a two-storey hotel, a large retail building, covered fuel station and lorry parking area. None of these elements are visible in the views described previously despite the prominent location of the Maidstone Motorway Service Area. This is due to the strong landscape infrastructure which has been established around and within the Maidstone Motorway Service Area.”

6.21 The Council commissioned its own assessment when investigating potential development at the site called ‘*The Landscape Capacity Study: Sensitivity Assessment*’ which acknowledged the inevitable impact of the development but in terms of mitigation it advises:

- *Retain and reinforce streamside vegetation, other tree belts and significant vegetation*
- *Retain the rural landscape character and the distinctive landform which forms an integral part of a wider pattern of undulations along the scarp foot of the Kent Downs*
- *Respect the setting of surrounding heritage assets*

- *Respect views from, and the setting of, Kent Downs AONB*

- 6.22 Natural England (NE) has raised an objection in terms of the impact upon the AONB and mainly reverts to its comments on the previous application in 2016, outlining that the development will be visible at least in part from several prominent locations along the North Downs Way, in particular from Cat's Mount (Viewpoint 12) and the stretch west of Hollingbourne Hill (Viewpoint 3). This view was taken into account by the Local Plan Inspector when considering and agreeing to allocation of the site in the Local Plan. In my opinion, having viewed the site from viewpoints from the AONB, I would agree with the LVIA conclusion that whilst views from the AONB and Pilgrim's Way National Trail are sensitive, due to the distance and/or the effect of intervening landform and vegetation, I would not consider the development to be overly intrusive from the AONB. Importantly, the detailed criterion required by the allocation policy would help to mitigate this impact to an acceptable level. Natural England also considers the plans submitted do not comply with all the policy criterion, however as advised, these are not being considered at this stage.
- 6.23 In localised views from the A20, M20, the access to the Woodcut Farm complex, (over which PROW KH641 runs), and Old Mill Lane around 400m to the south, the development would inevitably have a significant impact, and it would also be seen in views towards the AONB from Old Mill Lane and the A20 to the south, which would be harmful to its setting. However, the Local Plan Inspector carefully examined the likely impacts on the landscape and balanced it against the economic benefits and need for development, in allocating the site in the Local Plan. He considered that the design and layout modifications that are now part of policy EMP1(4) were needed to further minimise the landscape impacts. Whilst harm would arise, it is considered that the impact can be mitigated to an acceptable level through the landscape mitigation secured via the detailed policy criterion and through details at the reserved matters stage. On this basis, I do not consider this harm is sufficient to outweigh the extensive public benefits of the application which arise from the economic benefits through the creation of between 1000-1500 FTE jobs; input into the economy of some £19.6 million each year in Maidstone Borough, with a further input of £2.1 million in the wider economy; and it would significantly contribute to the identified employment needs of the Local Plan/Borough.
- 6.24 In conclusion, it is considered that the outline application has taken into account the recommendations of the LVIA and can allow for appropriate landscaping mitigation that follows the criterion within the allocation policy. The details of such landscaping would be specifically dealt with under any reserved matters application but as stated above, conditions can guide and set the main parameters and structural landscaping, which would ensure compliance with policy EMP1(4), policy SP17 so far as is possible bearing in mind the employment allocation, and where relevant, policy DM30 (Design Principles in the Countryside).
- 6.25 Criterion 10 requires environmental enhancements of the wider landscape beyond the allocation boundaries through financial contributions using the mechanism of a S106 agreement. In this regard, the applicant would provide £10,000 to be used towards tree planting, with priority given to schemes which provide screening for views into or out of the AONB, or alternatively tree planting schemes within 3km of the site boundary. Depending on the size of trees this could provide for between 40 (large) to 10,000 (forestry transplant) trees. Examples of possible locations could include highway verge in the vicinity of the A20/Junction 8 (subject to Highways Authority agreement); White Horse Wood Country Park; the River Len Local Nature Reserve; Millennium Green in Hollingbourne; and Church Landway Park, Church Lane,

Bearsted. It is considered that this would comply with the site policy and can be secured under a legal agreement with flexibility built in as to the potential locations.

- 6.26 In section 2 above, the previous decision dated 6th July 2016 to refuse planning permission for a similar scheme is referred to. The refusal was based on harm to the character and appearance of the countryside, Special Landscape Area, and the setting of the Kent Downs Area of Outstanding Natural Beauty not being outweighed by the benefits of the scheme, and the scheme causing less than substantial harm to the setting of the Grade II listed building which would not, it was said, be outweighed by public benefits. Heritage matters are considered below. In respect of harm to landscape interests, the application site is not within a Special Landscape Area because that category of designation has not been pursued in the recently adopted Local Plan. It is however countryside and it is within the setting of the AONB and its intrinsic character and beauty should be recognised.
- 6.27 The reasons for the acceptability of the development on the landscape and AONB are explained above. Since the previous refusal, the Local Plan Inspector has independently analysed the likely impacts of the site being allocated for up to 49,000m² of mixed employment use on the landscape and the AONB, and with the safeguards of the criteria in the now adopted policy he has found the policy to be sound. He had regard to the reasons why appeals at nearby Waterside Park and for the Kent International Gateway Rail Freight scheme had been dismissed. The fact that EMP1(4) is now adopted and that the current proposal accords with that policy lends considerable weight to the proposal and significantly more weight in favour of granting planning permission than could be accorded to the emerging unadopted policy which applied at the time of the previous refusal of permission.

Ecology

- 6.28 The site does not have a high ecological value due to it mainly being arable farmland. The KCC Ecological Advice Service advise they are satisfied with the ecological works carried out which shows the following:
- Low population of common lizards and slow worms
 - Breeding Birds – including skylark and yellowhammer (Priority Species – capable of being a material consideration in the determination of a planning habitat)
 - Low-moderate levels of bat foraging/commuting within the site and boundaries.
- 6.29 Whilst the proposals would result in the loss of arable land (habitat for skylark and yellowhammer), the proposed landscaping scheme will improve the extent and quality of the habitats for other priority birds such as song thrush, starling and house sparrow. Otherwise, the proposals would actually improve habitat for reptiles, and biodiversity would be improved by creating new habitats for wildlife.
- 6.30 KCC Ecology advise that, *“mitigation measures have been provided in the submitted ecological report, and we advise that these are sufficient to ensure there will be no detrimental impacts to these species. We advise that these measures are secured as a condition of any granted planning application.”* Conditions are recommended requiring a Biodiversity Method Statement; Ecological Design Strategy; and Landscape and Ecological Management Plan.
- 6.31 In terms of enhancements, one of the principles of the National Planning Policy Framework is that *“opportunities to incorporate biodiversity in and around developments should be encouraged”*. The application is proposing to create a grazed

parkland as part of the development with ponds, semi-improved grassland (just under 9ha) in addition to planting hedgerows and trees throughout the proposed development. If managed correctly, this will clearly increase the habitat suitable for protected/notable species. The conditions referred to above would ensure such enhancement.

- 6.32 Overall, any loss of arable habitat used by skylark and yellowhammer would be balanced by the improved extent and quality of habitats for other priority birds, and by the general enhancement of biodiversity across the site through creating new habitats for wildlife that would be secured by condition. This is in accordance with the NPPF, the policy for the site, and policies DM1 and DM3 (Natural Environment).

Heritage Matters

- 6.33 The Local Plan Inspector examined the likely impacts on heritage assets of the proposal which was the subject of the proposed allocation and he considered that the design and layout modifications that are now part of policy EMP1(4) were needed to minimise the potential for harm to the setting and heritage significance of Woodcut Farm House (listed grade II). The current application scheme, although in outline only, would have the potential to result in some minimal harm to the setting of this listed building. That harm would be significantly less than substantial harm but nevertheless merits considerable importance when the balancing exercise against public benefits of the development is undertaken. In this case, the public benefits of the scheme are very significant and attract substantial weight and, in terms of paragraph 134 of the NPPF, far outweigh the potential 'less than substantial' harm to the listed farmhouse.

Leeds Castle (Grade I Listed)

- 6.34 Initially, in relation to Leeds Castle and its associated listed Registered historic landscape/park, Historic England advised that there would be harm caused to the setting of Leeds Castle as they considered the development would be visible from the 5th tee of the golf course within the grounds of the Castle. However, following a comprehensive response from the applicant, Historic England advises that, in the first year of the development it would have at most a *"negligible visible presence"* and that once landscaping is established it would not be seen, and have withdrawn their previous advice. They advise that any harm would be negligible but state that, *"any and all harm must nevertheless be clearly and convincingly justified but we now think that any harm as represented by this viewpoint is within the potentiality of being outweighed by public benefits as per NPPF 134."* Clearly, the impact is considered to be negligible, but insofar as that impact is harmful it is extremely small and whilst the identification of some harm is always an important factor, I do not consider this harm (or this harm combined with minimal harm to Woodcut Farmhouse) is sufficient to outweigh the extensive public benefits of the application which arise from the economic benefits through the creation of between 1000-1500 FTE jobs; input into the economy of some £19.6 million each year in Maidstone Borough, with a further input of £2.1 million in the wider economy; and it would significantly contribute to the identified employment needs of the Local Plan/Borough.
- 6.35 In terms of Local Plan policy, policy DM4 (Development Affecting Designated & Non-designated Assets) requires new development to conserve the setting of a heritage asset. Harm to a setting, however minimal it is, does not strictly conserve the setting but the accompanying text to policy DM4 states that, *"in the determination of planning applications, the relevant assessment factors, including weighting of potential harm against wider benefits of the development, is set out in detail in the NPPF"*

paragraphs 131 to 135.” For the reasons outlined above, the design and layout modifications that are now part of policy EMP1(4) will minimise the potential harm through sensitive design to a suitable level in line with policy SP17 (The Historic Environment), such that the benefits outweigh that very low harm.

- 6.36 KCC has drawn attention to the Mortuary building of the former Hollingbourne Union Workhouse. This is not listed but considered to be a non-designated heritage asset by KCC and is located immediately south of the site in the rear garden area of ‘White Heath’. In my view, and having regard to the approach above, any harm to this building or its setting would be overwhelmingly outweighed by the public benefits of the development.

Access, Highways & Transportation

- 6.37 Policy EMP1(4) requires (in summary):

- Improvements to capacity at the A20/Willington Street junction.
- Package of measures to provide bus stops, pedestrian refuges and improvements to the footway on the northern side of the A20 Ashford Road.
- Contributions as proven necessary through a Transport Assessment towards any relevant junctions (M20 Junction 8 and A20 locations)
- A significant package of sustainable transport measures to secure access to the site by a range of sustainable modes, including the provision of a subsidised bus route, and supported by the implementation of a Travel Plan.

- 6.38 Highways England has raised no objections to the development in terms of any impact upon the M20 motorway and do not require any improvements to Junction 8. Highways England agreed with the applicant that a detailed assessment of J7 was not required and has stated that it will be for MBC, as part of their “managed approach” to mitigation of cumulative impact at J7 to decide whether contributions will be required. Improvements to J7 would be secured through financial contributions from three Local Plan housing sites and this has been agreed by Members, and so there is no need for this site to contribute.

- 6.39 The local Highways Authority (KCC) have raised no objections in relation to the local road network, subject to securing off-site highway improvements to the A20 including the site access junction; pedestrian refuge; footway/cycleway; bus stops; monies towards improvements to the A20/Willington Street junction; improvement of bus service; and travel plan and associated monitoring fee. For these reasons there are no highways objections in terms of the capacity of the highways network or safety in accordance with the site allocation and policy DM21 (Assessing the Transport Impacts of Development).

- 6.40 The proposals would include two new bus stops outside the site, and a financial contribution to increase the bus frequency at peak times to half hourly (10X service). The proposals also include the potential provision of a private staff shuttle bus service to accommodate shift patterns that would be secured via the Travel Plan for the site. A comprehensive Travel Plan to reduce car trips to/from the site with a range of initiatives and strategies, including on-going monitoring to ensure that the success can be continually tested and further mitigation measures required if necessary, is also proposed. It is also proposed to enhance the footway on the north side of the A20 to provide an attractive foot/cycle link between the site access and the A20/Roundwell

junction, and provide cycle parking and shower/changing facilities to encourage such use. This is in accordance with policy SP23 (Sustainable Transport).

- 6.41 The above measures would serve to improve the scope for public transport use and reduce impacts upon air quality at the site, which would be in accordance with site policy and would be secured by condition. Parking provision is not set at this stage but it is considered that appropriate parking could be provided in line with Local Plan policy DM23 (Parking Standards) under any reserved matters.

Archaeology & Minerals

- 6.42 Policy EMP1(4) requires (in summary):

- Proposals are designed to take account of the archaeological interest on the site as revealed through appropriate survey.
- Proposals will be required to undertake a minerals assessment to assess the viability and practicability of prior extraction of the minerals resource.

- 6.43 Regarding archaeology, KCC have advised that the potential for highly significant and extensive archaeology which would be a constraint on the proposed development is not high. They advise that further archaeological fieldwork and assessment would be appropriate prior to any detailed designs being agreed but they consider sufficient information has been produced at this stage and recommend conditions.

- 6.44 In terms of minerals, the site falls within a minerals safeguarding area, and in this case there is soft sand beneath the site. The Local Plan site policy requires a minerals assessment to assess the viability and practicability of prior extraction of the sand in line with Policy DM7 of the Kent Minerals and Waste Local Plan (KMWLP) and any supplementary planning guidance produced by the Minerals Planning Authority (KCC).

- 6.45 Therefore, the applicant has carried out what KCC considers to be a comprehensive Minerals Assessment. This in summary concludes that it would not be practical to extract sand prior to development due to physical constraints (high pressure gas main, existing services, watercourse and trees, and nearby residential properties in terms of amenity; and the setting of the AONB). The potential area left over equates to approximately four years of sand production and it is considered that this does not represent a viable investment for minerals extraction; is too small to warrant commercial investment in quarry plant for washing, without which the sand resource would have a limited market; it could not be linked to an existing facility; and the extraction would result in a steep sided quarry that would require backfilling in order to restore levels to accommodate the development. In addition, over the next four years there is considered to be a sufficient supply of minerals reserve already available to meet assessed needs, and that the site is a strategic employment allocation in the Local Plan with which comes significant employment/economic benefits that would be delayed. The assessment concludes that in the context of Policy EMP1(4), sand extraction on the site is constrained due to both practicability and viability considerations.

- 6.46 KCC have provided comments on the assessment (09/11/17) and consider that they require further clarification on the extent of the constraints, namely the buffer zones afforded to the nearby houses (White Heath, Chestnuts, and Woodcut Farm). They comment that the 100m buffer zones are to the curtilage boundaries rather than the houses, that potential mitigation to suppress dust is not assessed, and the maximum

standoff distance within the guidance have merely been applied. They comment the effect of simply imposing a 100m standoff reduces the potential extractable areas and this should be explored further. They also comment that further consideration needs to be given to the effect of prior partial extraction on the deliverability and viability of the proposed development.

- 6.47 To my mind, the 100m buffer zone (which follows the Institute for Air Quality Management Guidance) should be taken from the curtilage of the properties. The guidance states that the greatest potential for high rates of dust occurs within 100m of the source. I would consider that the effect from dust would not be greatly felt inside ones house but would be within ones garden and so I see no strong ground to reduce the buffer zone to the houses themselves, or that this is represents a fault within the minerals assessment that should require further work by the applicant.
- 6.48 The applicant has also responded to KCC's comments and whilst they contest that the buffer zones are appropriate, they consider that even if the buffer zones were reduced, the amount of sand would still remain unviable, and this would not affect the other factors (AONB, existing supply, need for site and delay etc.) that weigh against extraction.
- 6.49 Policy DM7 of the KMWLP, states planning permission can be granted for non-minerals if it is demonstrated that one or more of Clauses 1 to 7 apply. Clauses 2, 3, and 7 can allow for permission if extraction is not viable or practicable, if extraction effect's deliverability of the development, or if the need for the development is overriding following the exploration of opportunities for prior extraction. It is considered that the applicant has sufficiently explored opportunities for prior extraction as outlined above, and has subsequently identified reasonable constraints relating to practicality and delivery. I also consider the impact (albeit for a limited time) upon the AONB, and the proximity a quarry would be to residential properties weigh against sand extraction. Lastly, the need for this development which is the Council's strategic employment site within the Local Plan and its Economic Development Strategy, and the subsequent benefits that arise from the development are sufficient to override safeguarding of the sand. For these reasons, it is considered that the proposals are in accordance with policy EMP1(4) of the Local Plan and DM7 of the KMWLP.

Any Other Matters

Residential Amenity

- 6.50 The main impacts would be on nearby dwellings through the introduction of noise and disturbance from a 24 hour site from road traffic, vehicles and HGV's accessing the site, reversing, loading and manoeuvring within loading yard areas. Although it is submitted that HGV movements would be low overnight. It is submitted that the noise environment is dominated by traffic travelling on the M20 motorway and punctuated by the passing of high speed trains using the CTRL that runs parallel to the motorway, and to a lesser extent, there is noise from passing vehicles using the A20 and various farming activities.
- 6.51 Noise assessments and modelling has been carried out and this concludes that mitigation is required in the form of acoustic fencing/barriers to ensure nearby properties are sufficiently protected. This would involve acoustic barriers ranging between 2.4m and 3.5m in height and be positioned to protect nearby properties. MBC Environmental Health has been consulted and has raised no objections in terms of

noise and disturbance subject to conditions, and on this basis I do not consider there are any grounds to object to the proposals in this respect.

- 6.52 In terms of privacy, outlook, and light, it would be possible at the detailed design stage to position and design buildings so that they would not cause any unacceptable impacts in these respects, particularly bearing in mind the distance from these properties. Indeed the illustrative plan shows this is achievable. Whilst the current view over arable fields would be fundamentally changed, the loss or change to a view (as opposed to loss of outlook by undue enclosure) is not a material planning consideration warranting objection.
- 6.53 For the above reasons, the proposals are considered to be in accordance with policy DM1 of the Local Plan which seeks to protect residential amenity.

Flood Risk, Surface Water Drainage & Foul Drainage

- 6.54 The site is not within a high risk flood zone and as such the main issue relates to surface water drainage. KCC as Lead Local Flood Authority (LLFA) are the Statutory Consultee in this respect. A Flood Risk Assessment (FRA) has been submitted and states the drainage strategy for the site has been based upon the principle of controlling the post development runoff rate to that of the existing greenfield site. The LLFA approve of this principle but consider that investigation of more infiltration into the ground should be explored at the detailed design stage. They raise no objections subject to conditions which would be in accordance with policy DM1.
- 6.55 Southern Water advises that additional off-site sewers or improvements to existing sewers will be required to provide sufficient capacity to service the development. The applicant has consulted Southern Water which reveals that the local pumping station can accommodate the additional flows subject to additional storage being provided upstream of the pumping station. It is therefore proposed to upsize a pipe upstream of the pumping station from 150mm diameter to 1050mm diameter to provide the requisite additional storage required by Southern Water for the pumping station to operate effectively while accommodating the additional foul water flows. This would be secured under separate legislation (Water Industry Act) and as such there is no need for a condition.
- 6.56 The site is located over a principal aquifer which provides drinking water and within a groundwater source protection zone, and as such the Environment Agency advises conditions to prevent any pollution to the groundwater in accordance with policy DM3.

Air Quality

- 6.57 Local Plan policy DM6 (Air Quality) states that proposals that have an impact on air quality will be permitted, subject to the relevant criteria being met. These criteria relate to various scenarios where development may have an impact upon an area where air quality objectives are exceeded, or in Air Quality Management Areas (AQMA). They potentially require Air Quality Impact Assessments to be submitted and demonstrate that any impacts will be mitigated to acceptable levels or minimised. Maidstone's AQMA covers the urban area and the M20 corridor through the Borough.
- 6.58 The implications for air quality from the proposed development come through its construction and operation. For construction, predominantly the impact would be from dust and fine particles. The applicant's evidence suggests that existing background levels of dust are below air quality objectives and so the assessment therefore focuses on annoyance/nuisance dust effects, rather than health effects. Pollution from plant

and construction vehicles would occur, however, the evidence considers the volumes and periods over which these releases will occur are unlikely to result in any significant peaks in local air pollution concentrations. The evidence concludes that construction would have a low risk for any health effects (without mitigation).

- 6.59 During operation, the main impact would be from vehicle emissions. The evidence suggests that there would be a low effect on emissions at various sensitive locations, including five within the AQMA (A20 and Wellington St), and none of these would exceed air quality objectives. There are predicted to be no significant increases in pollution concentrations where changes in traffic flows as a result of the development are greatest, such as close to the site access. It is predicated that as traffic generated by the development disperses, it will not lead to any exceedances elsewhere within the AQMA.
- 6.60 With regard to the M20, the worst area is between J5 and J7 and traffic will obviously pass through the corridor. However, the proportion of traffic compared to that currently running through the M20 would be extremely low, and importantly there are no residential properties within the area most affected by air quality from the M20 (the carriageway and just beyond its boundaries). In addition, Environmental Health has stated that where they have measured air quality levels by the motorway carriageway, there were no exceedances on an annual basis in 2016.
- 6.61 As outlined above, the impact from construction and operation on air quality and harm to health is low, however, mitigation measures are proposed. With regard to construction, this would be through the tried and tested method of a Construction Environment Management Plan (CEMP) (and the Considerate Constructors Scheme) which essentially reduces the creation of dust/controls dust on site through a series of management measures.
- 6.62 In addition, an 'Emissions Mitigation Statement' has been produced in line with the Council's emerging Air Quality Planning Guidance, which calculates the development's transport related emissions and converts this into a monetary value that the applicant would spend on air quality mitigation measures that would be incorporated into the development. Relating to operation, this includes electric vehicle charging points, a Travel Plan, safe storage for bicycles and shower/ changing facilities, improvement of the footpath to the north of the A20, to encourage sustainable travel to work, two new bus stops on the A20 close to the site, provision of a private staff shuttle bus which would be secured by condition and/or legal agreement.
- 6.63 With mitigation measures applied, the evidence predicts that air quality impacts would be negligible. The Environmental Health Section agrees with this conclusion stating that it demonstrates '*negligible increases in NO₂ levels at all the receptor locations modelled*'. They have considered the evidence and raise no objections subject to a condition to require the specific measures of mitigation which will reduce the air pollutant emissions during construction and when in occupation. It is considered appropriate and reasonable to require and secure such details by way of condition due to the low impact on air quality that would be caused by the development, and as this is an outline application and so the detailed design/end users are not known at this stage.
- 6.64 For the above reasons, the proposal subject to mitigation is considered to comply with policy DM6 of the Local Plan and the NPPF with regard to air quality.

Tourism

6.65 Matters not generally considered above and raised in local representations relate to the impact upon tourism including Leeds Castle. There is no specific protection in the NPPF for tourism attractions but ‘support for sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors’, and clearly such attractions contribute towards the economic aims of the NPPF. Nonetheless, I do not consider that the presence of the development next to the M20 and existing transport infrastructure would significantly deter people from visiting Leeds Castle or other local tourism sites so as to warrant any objection to this application. I also note the Inspector for the ‘Waterside Park’ Inquiry stated, *“I am not persuaded that visitors would avoid the Castle and its grounds, together with the numerous special events that are hosted there, only because they would see an industrial park on their drive to and from the venue.”*

National Economic Policy

6.66 The NPPF includes a range of economic development policy provisions, including the identification of sustainable economic development as a key aspect of sustainable development; the importance of securing economic growth; provision for new and emerging sectors likely to locate in the area and flexibility to accommodate unanticipated sectors; a positive and constructive approach and favourable treatment towards investment proposals that secure sustainable economic growth. The NPPF also indicates that significant weight should be placed in the planning process on the identified need to support economic growth through the planning system. In this case, economic benefits include the creation of between 1000-1500 FTE jobs; input into the economy of some £19.6 million each year in Maidstone Borough, with a further input of £2.1 million in the wider economy; and a significant contribution to the identified employment needs of the Local Plan/Borough.

Planning Obligations

6.67 The applicant has submitted draft Heads of Terms to form a Section 106 legal obligation to include the following:

1) Creation of buffer zone and landscaping, land within the application boundary and land west of the application boundary

6.68 This would involve approximately 2.5ha of land at the west edge of site (within the red outline) being conveyed to either:

- (a) Bearsted Parish Council or Hollingbourne Parish Council; or
- (b) Maidstone Borough Council; or
- (c) Management Company

6.69 The land would be subject to a covenant that it shall be maintained in perpetuity as woodland and not for any other purpose; its future maintenance including the provision of a commuted sum would be submitted to the Council for approval and the conveyance of the land would be subject to the approved maintenance details. If none of these bodies took on the land it would be managed by a management company.

6.70 Within the land outlined in blue on the site location plan to the northwest of the site (area approximately 6.6ha), a management plan would be submitted to the Council for approval, with the plan to include provision for additional tree planting to create an area of wooded pasture. The management plan would include provisions for the long

term management of the land as wooded pasture in perpetuity and would not be used for any purpose other than agriculture, horticulture or forestry.

- 6.71 As outlined at paragraph 6.25, there would be a financial contribution of £10,000.00 to be used for community tree planting schemes.

2) Transport

- 6.72 This would include a financial contribution to 'Stagecoach' who operate the 10X bus service past the site to secure increased frequency of buses in the morning and afternoon peak travel periods. The contribution would be sufficient to provide two additional bus services between the application site and Maidstone East Station, in each direction, and two additional bus services over the same route in the afternoon peak period. It would provide a sufficient subsidy to secure the viability of the additional bus services for a period of three years.

- 6.73 The applicant has held discussions with Stagecoach and they have advised that the maximum contribution to increase the peak time frequency of the service for three years is approximately £180,000. Stagecoach has advised that they would review such a proposal at the point at which timescales for the development became clearer. They advise that there are a number of possibilities on this corridor that they would look at which could give a potential cost reduction but they could not commit at this stage. As such the figure they have provided is an indicative maximum.

- 6.74 The Travel Plan would also be secured under a legal agreement to include specific reference to provision of a private staff shuttle bus service to accommodate shift patterns. A Travel Plan monitoring fee would also be required to cover the costs of the Highway Authority (KCC) in monitoring the plan, which is generally £1,000 per year. The Travel Plan would cover a 5 year period and so a total of £5,000 would be secured.

3) Phasing and Implementation

- 6.75 The legal agreement would provide that land to accommodate a minimum of 5,000sqm of floorspace within Classes B1(a) and B1(b) will be provided with vehicular access and all necessary services including drainage and electrical power supply to the boundary of the plot prior to the first occupation of any units falling within Classes B1(c), B2 or B8. This is to allow for potential early occupation of such uses which are in highest need for the Borough, and in line with the site policy.

- 6.76 The legal agreement would safeguard land for 7,500sqm of Class B1(a)/B1(b) floorspace east of the stream and 2,500sqm of Class B1(a)/B1(b) floorspace west of the stream from any other uses until April 2026 or until otherwise allocated through a Local Plan Review, in line with the site policy for reasons explained at paragraph 6.02.

Master Plan & Monitoring Group

- 6.77 It is considered necessary to require a master plan to be agreed between the applicant and the Council to include high level parameters such as the phasing of the development; layout of built areas; strategic landscaping; general building design, form and scale; road layout, and materials, to ensure a high quality and coherent development. This would not be to decide the fine detail of the development as this would be dealt with via reserved matters applications but would set the framework to guide future development.

- 6.78 It is considered appropriate for there to be a monitoring group for the development of this site due to its scale (as has been used successfully on other major sites), made up of MBC planning officer(s), North Downs Ward Councillors, and Hollingbourne Parish Council. The purpose of the group would be to monitor practical matters such as the implementation of the Section 106 Agreement, planning conditions submissions and compliance, and also to be kept up to date with potential future development of the site. (The latter would be for information purposes as any discussion on the actual details would be subject to normal pre-application procedures). This is likely to meet a number of times a year so it is considered reasonable to require a fee to cover the professional time of the Council and a figure of £1,000 per year for 5 years has been agreed (Total £5,000).
- 6.80 Any contributions or measures requested under Section 106 obligations need to be scrutinised, in accordance with Regulations 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010.
- 6.81 In this case, the landscape obligations are considered to be necessary in order to provide mitigation for the development and are in line with the site allocation. The transport measures are necessary in order to improve the sustainability of the site and are in line with the site allocation. The phasing, marketing and implementation requirements are considered necessary to ensure delivery of much needed employment floorspace including safeguarding B1a/b uses until 2026 in line with the site allocation. The master plan and monitoring group is considered necessary to ensure coherent delivery of the site, and so local stakeholders are involved and kept up to date for such a major development. All proposals are considered to meet the CIL regulations tests.

7.0 Conclusion

- 7.1 In addition, to the reasons outlined in the assessment above, the outline application is considered to be acceptable for the summarised main reasons outlined below:
- Under Planning Legislation, the determination of this application must be made in accordance with the Development Plan unless material considerations indicate otherwise.
 - The outline proposals are for a maximum floor space of 45,295m² of B1(a), B1(b), B1(c) and B8 units. This complies with policy EMP1(4) of the Local Plan for the site which allows for up to 49,000m².
 - The outline proposals allow for compliance with the criterion under Local Plan policy EMP1(4) relating to layout; design; landscaping; ecology; and transport. (The specific details of which would be considered under future reserved matter applications and conditions will be attached to ensure compliance with relevant criterion).
 - The access to the site (the only specific matter being considered at this stage) is acceptable.
 - Heritage impacts would be very low and would be outweighed by public benefits.
 - Conditions would ensure appropriate mitigation of any outward impacts of the development.

- A legal agreement will secure necessary master planning, environmental, transport, and floorspace delivery/safeguarding requirements as required by policy EMP1(4).
- The proposals are in accordance with the Kent Minerals & Waste Local Plan.
- The economic benefits will be extensive and the number of new jobs created substantial. Significant weight must be given to these benefits.
- The primary policy EMP1(4) in the newly-adopted local plan is met in all respects, and other material considerations do not point to a refusal, therefore planning permission should be granted.

7.2 For these reasons, it is recommended that planning permission be approved subject to a legal agreement to secure the matters listed below and subject to the conditions listed below. Delegated powers are sought from Members in order to finalise the detailed terms of the legal agreement.

Conditions

7.3 In terms of the time limit for submission of reserved matters, the applicant has requested an extension to the standard requirement to submit details within 3 years, requesting 5 years. This is based on the size of the site and the multi-plot nature of the layout, and the applicant considers this would allow increased flexibility and enable individual reserved matters applications to be tailored to the specific requirements of individual businesses. Due to the scale of the development, this is a reasonable time period and strikes an appropriate balance between providing flexibility and also delivering the needed employment.

7.4 Conditions are also considered necessary to set certain floorspace amounts to ensure compliance with the maxims assessed under this application, and also to secure a minimum amount of B1a/b floorspace of 10,000m² in line with the site policy.

7.5 Otherwise conditions are considered necessary to cover the following key matters and are detailed in full below:

Parameters relating to landscaping, building areas, building footprints, building heights, building frontages, building and hard surfacing materials (including use of ragstone, green walls and roofs); and boundary treatments; Lighting; Landscaping (Details, Implementation & Management); Tree Protection; BREEAM Level; Ecology (Mitigation, Management & Enhancement); Off-site Highways Improvements (access, pedestrian refuge, footway/cycleway, bus stops and A20/Willington Street junction improvement); Other Highways (Site-wide Framework Travel Plan, Construction Environmental Management Plan, Wheel washing facilities prior to commencement of work on site; Completion and maintenance of the access); Foul and Surface Water Drainage; Contaminated Land; Pollution Groundwater Control; Air Quality; Plant & Ducting Details; Noise; Extraction Details; Archaeology; Crime Prevention; No Open Storage; Removal of PD Rights for Extensions;

8.0 RECOMMENDATION

Subject to the prior completion of a legal agreement to provide for the Heads of Terms set out below and subject to the conditions as set out below, the Head of Planning and

Development **BE DELEGATED POWERS TO GRANT** to grant planning permission, and to be able to settle or amend any necessary Heads of Terms and planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

Heads of Terms

1. 2.5ha of land at the west edge of site (within the red outline on the site location plan) being conveyed to a Parish Council, Maidstone Borough Council or Management Company to be maintained in perpetuity as woodland. Future maintenance including the provision of a commuted sum will be submitted to the Council for approval and conveyance of the land subject to the approved maintenance details.
2. 6.6ha of land (within the land outlined in blue on the site location plan) to the northwest of the site shall not to be used for any purpose other than agriculture, horticulture or forestry in perpetuity including submission of a management plan to the Council for approval, with the plan to include provision for additional tree planting to create an area of wooded pasture and long term management of the land as wooded pasture.
3. Financial contribution of £180,000 to provide two additional bus services between the application site and Maidstone East Station in each direction (10X Service) in the morning and afternoon peak periods for a period of three years.
4. Travel Plan including provision of a shuttle bus service for staff to and from the site to public transport links (to be finalised by officers), and a Travel Plan monitoring fee of £5,000.
5. Securing land to accommodate a minimum of 5,000sqm of floorspace within Classes B1(a) and B1(b) with vehicular access and all necessary services including drainage and electrical power supply to the boundary of the plot prior to the first occupation of any units falling within Classes B1(c), B2 or B8.
6. Securing the safeguarding of land for 7,500sqm of Class B1(a)/B1(b) floorspace east of the stream and 2,500sqm of Class B1(a)/B1(b) floorspace west of the stream from any other uses until April 2026 or until otherwise allocated through a Local Plan Review.
7. Securing a Master Plan to be agreed between the applicant and the Council prior to the commencement of development to include high level parameters such as the phasing of the development; layout of built areas; strategic landscaping; general building design, form and scale; road layout, and materials.
8. The creation of a 'Development Monitoring Group' made up of MBC planning officer(s), North Downs Ward Councillors, and Hollingbourne Parish Council to monitor practical matters such as the implementation of the Section 106 Agreement, planning conditions submissions and compliance, and also to be kept up to date with potential future development of the site. To include a monitoring fee of £5,000.

Conditions

1. The development shall not commence until approval of the following reserved matters has been obtained in writing from the Local Planning Authority:-
 - a. Layout
 - b. Scale
 - c. Appearance
 - d. Landscaping

Planning Committee Report

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of five years from the date of this permission.

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved;

Reason: No such details have been submitted and in accordance with the provisions of Section 92 of the Town and Country Planning Act 1990.

2. The details of layout submitted pursuant to condition 1 shall show no more than 40% of the site being covered by buildings.

Reason: To ensure a satisfactory appearance to the development.

3. On the eastern part of the site (east of the existing stream), there shall be no units with a footprint of over 5,000m², no buildings shall exceed a ridge height of 12 metres, and buildings shall be orientated end-on to the M20 motorway.

Reason: To ensure a satisfactory appearance to the development.

4. On the western part of the site (west of the existing stream), there shall be no units with a footprint of over 2,500m², no buildings shall exceed a ridge height of 8 metres, and buildings shall be orientated end-on to the M20 motorway.

Reason: To ensure a satisfactory appearance to the development.

5. On the highest part of the site at and above the 55m contour line, as shown on the Local Plan policies map, there shall be no buildings with a footprint of over 500m².

Reason: To ensure a satisfactory appearance to the development.

6. The details of appearance submitted pursuant to condition 1 shall follow the principles of the Design & Access Statement and include:

- Curved roof forms.
- Green roofs and walls on smaller footprint buildings (500m² and below).
- Non-reflective materials and sensitive colouring.
- Glazed frontages to buildings and active frontages addressing both the A20 and M20.
- The use of vernacular materials including ragstone on buildings and in boundary treatments.
- High quality surfacing materials.
- Sensitive lighting.
- The use of photovoltaic cells incorporated into the design of the roofs.

Reason: To ensure a satisfactory appearance to the development.

7. The details submitted pursuant to condition 1 shall provide for vehicle and cycle parking spaces in line with the Council's adopted standards.

Reason: In the interests of highway safety and to promote sustainability.

8. The details of landscaping submitted pursuant to condition 1 shall be designed in accordance with the principles of the Council's landscape character guidance. The

scheme shall show all existing trees, hedges and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained or removed. It shall detail measures for protection of species to be retained and include a planting specification, a programme of implementation and maintenance and a 10 year management plan. The programme of implementation shall include site boundary planting being established under the first phase of any development. The landscape scheme shall specifically address the need to provide:

- Substantial tracts of planting extending into the body of the development to achieve clear visual separation between individual buildings and between parking areas.
- Dense woodland planting along the A20 frontage at the south western edge of the site in excess of 25m width including a planted bund.
- A 30m native woodland belt with understorey shrubs and grasses along the western edge of the site to help secure the setting of Woodcut Farmhouse.
- Planted landscape buffer zones to the west north and east of Chestnuts and White Heath adjacent to the site to help protect the amenity of these properties.
- Retention of the protected trees along Musket Lane, augmented with hedgerows and a new native woodland shaw at least 15m in depth to Musket Lane.
- Creation of a circa 38m-70m landscape buffer between any development and the M20 which includes the gas pipe easement.
- A woodland shaw along the northern boundary and the M20 of at least between 10-24m width.
- The gas pipe easement corridor managed as long grass with indigenous wild flora.
- Tracts of structural landscaping extending into development areas of at least 15m in width.
- An avenue of tree planting along the access road.
- An area of heavily treed native woodland planting in the north west corner of the site of approximately 2.5ha.
- Tree planting within the area the land outlined in blue to the west of the application site (approximately 2.4ha).
- An area of tree planting within the land outlined in blue to the west of the application site.
- Swales and balancing ponds including the provision of shallow areas, and deeper, cooler areas, as well as the planting regimes.

Reason: To ensure a satisfactory appearance and landscape setting to the development and satisfactory implementation, maintenance and management of the landscaped areas.

9. The details submitted pursuant to condition 1 shall include at least 10,000m² of B1(a) or B1(b) floorspace.

Reason: To comply with the site allocation policy.

10. The details submitted pursuant to condition 1 shall not exceed the following floorspaces (unless made subject to further assessment):

B1(a)(b) uses - 10,000m²

B1(c) uses - 12,840m²

B8 uses - 22,455m²

Reason: To comply with the floorspace amounts assessed under the Environmental Statement.

11. The details submitted pursuant to condition 1 shall be designed so that any impact with regards to noise is reduced to a minimum in accordance with national policy and the design of the development shall aim to meet the levels defined by the Noise Rating Curve 35 at the existing noise sensitive properties. The final design and noise mitigation applied shall take into account the prevailing noise environment, the nature and extent of any residual impact as well as its economic cost and benefit.

Reason: In the interests of residential amenity.

12. The details submitted pursuant to condition 1 shall incorporate measures to minimise the risk of crime according to the principles and physical security requirements of Crime Prevention through Environmental Design (CPTED).

Reason: In the interest of security, crime prevention and community safety.

13. No development shall take place until a phasing plan for the whole site has been submitted to the Local Planning Authority and agreed in writing. The approved phasing plan shall be followed unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure a suitable development of the site.

14. No development shall take place until the specific details of the off-site highway improvements to the A20 including the site access junction, pedestrian refuges, footway/cycleway enhancements, and bus stops have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highways Authority. The subsequently approved details shall be carried out in full prior to the occupation of any of the development.

Reason: In the interests of highway safety and to promote sustainability.

15. No development shall take place until a Construction Management Plan and Code of Construction Practice, including the provision of wheel washing facilities, has been submitted to and approved in writing by the local planning authority. The approved details shall be fully implemented. The construction of the development shall then be carried out in accordance with the approved Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites and the Control of dust from construction sites (BRE DTi Feb 2003) unless previously agreed in writing by the Local Planning Authority.

The code shall include:

- An indicative programme for carrying out the works
- Measures to minimise the production of dust on the site(s)
- Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)
- Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site(s)
- Design and provision of site hoardings

- Management of traffic visiting the site(s) including temporary parking or holding areas
- Provision of off road parking for all site operatives
- Measures to prevent the transfer of mud and extraneous material onto the public highway
- Measures to manage the production of waste and to maximise the re-use of materials
- Measures to minimise the potential for pollution of groundwater and surface water
- The location and design of site office(s) and storage compounds
- The location of temporary vehicle access points to the site(s) during the construction works
- The arrangements for public consultation and liaison during the construction works

Reason: In view of the scale of the development and in the interests of highway safety and local amenity.

16. No development shall take place (including any demolition, ground works, site clearance) until an updated Great Crested Newt survey report and mitigation strategy (if required) has been submitted to and approved in writing by the Local Planning Authority. Any approved mitigation shall be carried out in full and thereafter maintained.

Reason: In the interests of biodiversity.

17. No development shall take place until a Landscape and Ecological Management Plan (LEMP) has been submitted to, and approved in writing by, the local planning authority. The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed including the retained woodland pasture, SUDS scheme, wooded paddock and hedgerows;
- b) Ecological trends and constraints on site that might influence management;
- c) Aims and objectives of management;
- d) Appropriate management options for achieving aims and objectives;
- e) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- g) Details of the body or organisation responsible for implementation of the plan;
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: In the interests of biodiversity.

18. No development shall take place until an ecological design strategy (EDS) addressing ecological enhancements for the site has been submitted to and approved in writing by the local planning authority. The EDS shall include the following:

- a) Purpose and conservation objectives for the proposed works;

- b) Review of site potential and constraints;
- c) Detailed design(s) to achieve stated objectives;
- d) Extent and location/area of proposed works on appropriate scale maps and plans;
- e) Type and source of materials to be used, e.g. native species of local provenance;
- f) Timetable for implementation demonstrating that works are aligned with any proposed phasing of development;
- g) Persons responsible for implementing the works;
- h) Details of initial aftercare and long term maintenance;
- i) Details for monitoring and remedial measures.
- j) Provision of ground nesting bird habitat.
- k) Follow the principles of the biodiversity enhancement plan as outlined under the 'Lloydbore Ecology Report (20/04/17)'

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: To protect and enhance biodiversity.

19. No development shall take place (including any ground works, site or vegetation clearance) until a method statement for ecological mitigation has been submitted to, and approved in writing, by the local planning authority. The content of the method statement shall include the:

- a) Purpose and objectives for the proposed works;
- b) Detailed design(s) and/or working method(s) necessary to achieve stated objectives;
- c) Lighting strategy plan demonstrating that there will be no detrimental impacts to bats and their place of shelter;
- d) Extent and location of proposed works, including the identification of a suitable receptor site, shown on appropriate scale maps and plans;
- e) Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
- f) Persons responsible for implementing the works, including times during construction when specialist ecologists need to be present on site to undertake / oversee works;
- g) Use of protective fences, exclusion barriers and warning signs;
- h) Initial aftercare and long-term maintenance (where relevant);
- i) Disposal of any wastes for implementing work (where relevant).

The works shall be carried out in accordance with the approved details and shall be retained in that manner thereafter.

Reason: To protect habitats and species identified in the ecological surveys from adverse impacts during construction.

20. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".

Planning Committee Report

- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of biodiversity.

21. No development shall take place (including demolition, ground works, vegetation clearance) until a precautionary reptile mitigation strategy has been submitted to and agreed in writing by the Local Planning Authority. The precautionary mitigation strategy must include the following:

- Map showing the areas of suitable reptile habitat (both retained and lost by the development)
- Methodology to clear the reptile habitat
- Time of year the works will be carried out
- Confirmation that an experienced reptile worker will carry out the works
- Details of how the retained habitat will be protected during construction works.

The approved strategy shall be adhered to unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of biodiversity.

22. No development shall take place a scheme detailing and where possible quantifying what measures or offsetting schemes are to be included in the development which will reduce the transport and building related air pollutant emissions of the development during construction and when in occupation have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. The developer should have regard to the DEFRA guidance from the document Low Emissions Strategy - using the planning system to reduce transport emissions January 2010.

Reason: In the interests of pollution reduction.

23. No development shall take place until the following details have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details:

- (i) Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall maximise the use of infiltration and shall demonstrate that both the rate and volume of run-off leaving the

site post-development will be restricted to that of the existing site, with the rate of runoff not exceeding 80.1l/s for any rainfall event (up to and including the climate change adjusted 100 year critical storm).

- (ii) Development shall not begin until it has been appropriately demonstrated that the existing on-site surface water flow-routes and accumulation points will not be altered in such a way that the development places adjacent properties at risk of flooding during any rainfall event, up to and including the climate change adjusted critical 100 year storm.
- (iii) No building hereby permitted shall be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
 - i) a timetable for its implementation, and
 - ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

24. No phase of development shall take place until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the local planning authority:
- 1) A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
 - 2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - 3) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
 - 4) A Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in 3. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean;

Any changes to these components require the express consent of the local planning authority. The scheme shall thereafter be implemented as approved.

Planning Committee Report

Reason: For the protection of Controlled Waters and in the interests of pollution prevention.

25. No phase of development shall take place until the applicant, or their agents or successors in title, has secured the implementation of the following relating to that phase:
- i archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
 - ii following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority

Reason: To ensure that features of archaeological interest are properly examined and recorded and that due regard is had to the preservation in situ of important archaeological remains.

26. No phase of the development shall take place until details of the proposed slab levels of the buildings and the existing site levels relating to that phase have been submitted to and approved in writing by the Local Planning Authority and the development shall be completed strictly in accordance with the approved levels.

Reason: In order to secure a satisfactory form of development.

27. No phase of the development shall take place until an Arboricultural Impact Assessment (AIA) in accordance with the current edition of BS:5837 relating to that phase (where relevant) has been submitted to and approved in writing by the local planning authority. It shall detail implementation of any aspect of the development that has the potential to result in the loss of or damage to trees, including their roots, and take account of site access, demolition and construction activities, foundations, service runs and level changes. It shall also detail any tree works necessary to implement the approved scheme and include a plan showing protection of trees and ground designated for new structural planting.

Reason: To safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development.

28. No phase of the development above damp proof course level shall take place until written details and samples of the materials to be used in the construction of the external surfaces of any buildings and hard surfaces relating to that phase have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials. The materials shall follow the principles of the Design & Access Statement.

Reason: To ensure a satisfactory appearance to the development.

29. No phase of the development above damp proof course level shall take place until details of all fencing, walling and other boundary treatments relating to that phase have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the building(s) or land and maintained thereafter. The boundary

treatments shall follow the principles within the Design & Access Statement and include the use of ragstone walling.

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing occupiers.

30. No phase of the development above damp proof course level shall take place until details of any lighting for the site relating to that phase has been submitted to and approved in writing by the local planning authority. The submitted details shall include, inter-alia, details of measures to shield and direct light from the light sources so as to prevent light pollution and in the interests of biodiversity. The development shall thereafter be carried out in accordance with the subsequently approved details. All external lighting shall be installed in accordance with the specifications and locations set out in the details, and these shall be maintained thereafter.

Reason: To prevent light pollution in the interests of the character and amenity of the area and biodiversity.

31. No phase of the development shall take place above damp proof course level until details of facilities for the charging of electric vehicles within that phase have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be provided before the first use of the building(s) or land, should conform to the latest standards and conform to best practice, and be thereafter retained.

Reason: In the interests of sustainable transport use, pollution reduction and local amenity.

32. The approved details of the access to the site as shown on drawing no. PL 003 RevC shall be completed prior to the occupation of the site and thereafter maintained to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety.

33. Prior to first use of any premises, in respect of noise, details of the anticipated operation of the various units shall be submitted to and approved in writing by the Local Planning Authority. In particular, the details shall compare the anticipated operation with that assumed in the Environmental Statement (ES) to show that the level of noise impact and effect would continue to comply with national policy. The development shall be carried out in accordance with the approved details.

Reason: In the interests of residential amenity.

34. Notwithstanding the implementation of wider site boundary planting being established under the first phase of any development under condition 8, all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season (October to February) following the occupation of the phase that the landscaping scheme relates to. Any seeding or turfing which fails to establish or any trees or plants which, within ten years from the first occupation of that phase or from planting of the wider site boundary planting, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme unless the local planning authority gives written consent to any variation.

Reason: To ensure a satisfactory setting and external appearance to the development.

35. Any existing trees or hedges approved to be retained on site which, within a period of ten years from the first occupation of a property, commencement of use or adoption of land, die or become, in the opinion of the local planning authority, so seriously damaged or diseased that their long term amenity value has been adversely affected, shall be replaced in the same location during the next planting season (October to February), with plants of an appropriate species and size to mitigate the impact of the loss as agreed in writing by the local planning authority.

Reason: To safeguard existing landscaping and to ensure a satisfactory setting and external appearance to the development.

36. All trees to be retained must be protected by barriers and/or ground protection in accordance with BS 5837 (2012) 'Trees in Relation to Construction-Recommendations'. No equipment, machinery or materials shall be brought onto the site prior to the erection of approved barriers and/or ground protection except to carry out pre commencement operations approved in writing by the local planning authority. These measures shall be maintained 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 protected areas. No alterations shall be made to the siting of barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas without the written consent of the local planning authority;

Reason: To safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development.

37. All buildings shall achieve a Very Good BREEAM UK New Construction 2014 rating. A final certificate shall be issued to the Local Planning Authority for written approval to certify that at a Very Good BREEAM UK New Construction 2014 rating has been achieved within 6 months of the first occupation of each building.

Reason: To ensure a sustainable and energy efficient form of development.

38. The precautionary bat mitigation as detailed within the 'Lloydbores Ecology Report (20/04/17)' shall be strictly adhered to unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of biodiversity.

39. Details of the proposed location and design of any electricity substation(s) shall be submitted to and approved in writing by the Local Planning Authority. The design should aim to maximise the distance between the sub-station and existing noise sensitive properties and shall aim to meet the levels defined by the Noise Rating Curve 35 at the existing noise sensitive properties. The final design and noise mitigation applied shall take into account the prevailing noise environment, the nature and extent of any residual impact as well as its economic cost and benefit. The development shall be carried out in accordance with the approved details.

Reason: In the interests of residential amenity.

40. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall

Planning Committee Report

be implemented as approved, verified and reported to the satisfaction of the Local Planning Authority.

Reason: For the protection of Controlled Waters and in the interests of pollution prevention.

41. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to Controlled Waters. The development shall be carried out in accordance with the approval details.

Reason: For the protection of Controlled Waters and in the interests of pollution prevention.

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

Reason: For the protection of Controlled Waters and in the interests of pollution prevention.

43. No open storage of plant, materials, products, good for sale or hire or waste shall take place on the site.

Reason: To safeguard the character and appearance of the surrounding area.

44. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), no extensions to any buildings shall be carried out without the permission of the Local Planning Authority;

Reason: To safeguard the character, appearance and functioning of the surrounding area.

45. Any B1(a) and (B1(b) premises shall only be used for those purposes and for no other purpose (including any other purpose in Class B1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) or permitted under the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended)) or any statutory instrument revoking and re-enacting those Orders with or without modification;

Reason: To ensure the development continues to meet the employment needs identified within the Local Plan.

46. In respect of the approved access from the A20 to a position 40 metres into the site only, the development hereby permitted shall be carried out in accordance with drawing no. 13-0596.110 (Site Access Visibility Splays), and 9325.PL.001B (Site Location Plan).

Reason: For the purposes of clarity.

Planning Committee Report

Case Officer: Richard Timms

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

Appendix 5

BNG Technical Memorandum Produced by SLR submitted under Appeal Application

To: Kent County Council

From: Michelle Robertson MCIEEM on behalf of Wates Developments Ltd.

Company: SLR Consulting Limited

cc: Wates Developments Ltd.

Date: 19 May 2023

Project No. 404.000010.00001

RE: Update Regarding Offsite Biodiversity Net Gain at Land North Of The A20, Hollingbourne (23/500899/OUT)

1.0 Background

Currently the Biodiversity Net Gain (BNG) assessment for the Ashford Road (application number 23/500899/OUT) project is at a 39.34% loss for habitats and a 12.36% gain for hedgerows (refer to submitted Biodiversity Gain Plan). Due to the size of the Project an offsite option for BNG is required. This was not presented in the reporting at planning submission as the offsite BNG option is still in progress, this update provides background as to how the offsite option for BNG is developing.

2.0 Location

Wates Developments Ltd. have identified a suitable site for Biodiversity Net Gain (BNG), this is located locally within Kent, 4.8km to the Southeast of the project and referred to as Water Lane. The location of the offsite area is shown below in Figure 1.

Figure 1: Offsite BNG location (red line boundary) within local surroundings.



3.0 Habitats

SLR ecologist Giselle Hynes qualifying CIEEM visited the Water Lane site on the 1 March 2023 and undertook an initial assessment of the habitat. The area contains the following habitat types:

- Lowland mixed deciduous woodland in moderate condition (0.9 ha) refer to Figure 2.
- Other neutral grassland in fairly poor condition (0.5 ha) refer to Figure 3.
- Bramble scrub (0.5 ha)
- Bracken (0.1 ha)

The baseline metric score is 17.62 units. The woodland on site has good connectivity to further woodland within the immediate locality of the offsite location.

Figure 2: Woodland at Water Lane



Figure 3: Grassland and bracken at Water Lane



4.0 Initial ideas for BNG at Water Lane

SLR are currently proposing to create lowland meadow habitat in a fairly good condition within the neutral grassland habitat area, this would bring the site level score up to 20.68 units, a 12.46% increase. Should this habitat be viable, it will meet the priority habitat targets specified in the Maidstone Borough Council "Go Green Go Wild" Biodiversity Strategy through creation of wildlife-rich grassland.

To ensure that the proposed habitat is viable and to target species and management appropriately, soil sampling is being scheduled. The results of the soil sampling will enable ecologists to have more certainty that the recommended habitat will establish successfully. The results will also guide best seed mixes, establishment and management practices for the recommended habitat. In addition, soil samples will be taken for eDNA metabarcoding of fungi, to ensure any establishment practices maintain and enhance the fungi community present.



If the proposed habitat is found to be viable, a draft habitat management plan will be drawn up to demonstrate how the classification and condition will be achieved. These studies and the relevant BNG matrix will take 8- 10 weeks to complete but will ensure that a biodiversity net gain scheme proposed is viable and complementary to the existing habitat and is designed appropriately.

