

**LAND NORTH OF THE A20
ASHFORD ROAD
HOLLINGBOURNE KENT**

**APPEAL REFERENCE
APP/U2235/W/23/3329481**

**APPENDICES TO PROOF OF EVIDENCE OF
ASHER ROSS MRTPI**

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Appendix A – Summary of Experience

SUMMARY OF EXPERIENCE OF ASHER ROSS MRTPI

I have been / am involved in the following relevant and recent projects (inter alia):

Examinations in Public

Promotion of Green Belt site for residential development in London Borough of Croydon. Appeared at Croydon's EiP (2018) and at London Plan EiP (2019).

Promotion of employment site on greenfield site in Horley. Appeared at the RBBC DMP EiP.

Promotion of greenfield site for 250 homes near West Malling. Appeared at the Tonbridge and Malling EiP sessions in 2020.

Promotion of greenfield sites in Mid Sussex for housing development. EiP in June 2021.

Promotion of greenfield sites in Waverley. EiP in July 2022.

Promotion of land in Maidstone for employment and residential uses. EiP in September 2022.

Public Inquiries

Land at Waverley Lane, Farnham - appearance as planning witness in SoS recovered appeal for 157 new homes on the edge of Farnham. Inspector recommended appeal be allowed with full costs, but SoS disagreed. Revised scheme appealed and granted consent in 2023.

Land at former Government Offices, Hook Rise South, Tolworth – appearance as planning witness in SoS recovered appeal for 705 new homes on brownfield site in Tolworth. SoS agreed with the planning case, but appeal dismissed on S106 / affordable housing matters. Revised application now permitted.

Land east of Lindfield – appeared as planning witness for a 200-unit scheme on greenfield land. Appeal recovered by SoS and allowed in 2018.

215 Tunnel Avenue, London – appeared in relation to a Hazardous Substance Continuation application called-in by the Secretary of State. Consent granted.

Westferry Printworks, London – appeared as planning witness on behalf of Tower Hamlets Council in relation to development of circa 1,500 new homes. SoS decision quashed and subsequently dismissed.

Land west of Winterfield Lane, East Malling – appeared at public inquiry for up to 250 homes on greenfield site adjacent to settlement. Provided evidence on planning and housing land supply. Appeal allowed in 2021.

Land east of Station Road, Oakley – appeared at public inquiry for up to 110 homes on greenfield site adjacent to settlement. Provided evidence on planning and housing land supply. Appeal allowed in 2021.

Land at Appledore Road, Tenterden – appeared at public inquiry for 141 homes on greenfield site adjacent to settlement. Provided evidence on planning and public right of way. Appeal allowed in 2021. A legal challenge to the decision was refused consent by the High Court.

Land at South Road, Wivelsfield – appeared at a public inquiry for 45 homes on greenfield site adjacent to settlement. Appealed allowed in 2022.

Land at The Street, Bramley – appeared at public inquiry for 140 homes on greenfield site. Appeal allowed in 2023.

Other Projects

- Advising in relation to a residential scheme adjacent to the settlement of Billingshurst
- Advising in relation of a Regulation 18 allocation in Canterbury
- Generally advising on development of numerous residential sites across Surrey, Sussex and Kent
- Advising in relation to a CPO matter in Huntingdonshire

Appendix B – White Heath Appeal Decision



Appeal Decision

Site visit made on 15 September 2020

by **D.R McCreery MA BA (Hons) MRTPI**

An Inspector appointed by the Secretary of State

Decision date: 26 October 2020

Appeal Ref: APP/U2235/W/20/3249008

White Heath, Ashford Road, Hollingbourne ME17 1XG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Berkley Care (Hollingbourne) Limited against the decision of Maidstone Borough Council.
 - The application Ref 19/502470/OUT, dated 7 June 2019, was refused by notice dated 17 September 2019.
 - The development proposed is demolition of existing buildings and erection of new structures to form care home for residents requiring nursing, dementia, and residential care, along with car parking, landscaped gardens and a separate refuse/recycling facility.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is in outline form with approval sought for access, appearance, layout, and scale. Landscaping is reserved for later agreement. For the purposes of this appeal I am treating the submitted drawings as only indicative of the reserved matter.
3. On reviewing the appeal evidence and further assessment of the relationship between the proposed development and the anticipated adjacent employment uses and roads, the Council have stated that they are now content with the details in regard to noise, land contamination, and air quality subject to the imposition of planning conditions. I have therefore considered the appeal on this basis.

Main Issues

4. The main issues are:
 - Whether the proposed development is an appropriate location having regard to local and national policy.
 - The effect on the living conditions of the future occupiers of the proposed development, with particular regard to outside amenity space.

Reasons

Location

5. It is common ground between the parties that the appeal site lies beyond the defined settlement of Maidstone and forms part of the open countryside for planning purposes. Policy SP17 of the Maidstone Local Plan (Local Plan) resists development proposals in the countryside unless they accord with other policies in the plan and do not result in harm to the character and appearance of the area.
6. Whilst not mentioned in the decision notice, Policy DM14 is referenced by the Appellant, and also the Council in their officer report and subsequent statement. The policy specifically considers nursing and care home development and directs it towards sites within the boundaries of defined settlements. It offers no support for locating nursing and care homes in the countryside and I see little of persuasion in the wording and justification to suggest that it isn't intended to limit development to certain locations.
7. DM14 is consistent with Policy SS1, which provides a strategic approach towards meeting the development needs of the area, including housing, targeted at the most sustainable locations where employment, services, and a range of transport choices are available. The policy approach described is consistent with Section 9 of the National Planning Policy Framework (the Framework) in relation to promoting sustainable transport and focusing development in areas which are or can be made sustainable.
8. The surroundings are dominated by the road network which carries large volumes of fast moving traffic. The A20 (Ashford Road) passing the front of the site and connecting with junction 8 of the M20 at the rear, are significant infrastructure features. The road network is mostly bordered by open countryside which continues into the distance. Existing buildings are scattered and associated with a range of smaller scale residential and commercial uses. The characteristics described give the site a physical isolation from nearby settlements that is consistent with its countryside designation in the Local Plan.
9. In terms of public transport access to the site, the most convenient option for many would be bus services travelling between Maidstone and Ashford which pass the site along the A20 with reasonable regularity. However, as this service does not run beyond the early evening time its use would not be a viable option for some, for example employees working evening/night shifts.
10. Further, the bus stops for these services are located between 350 and 450 metres from the site along the A20 where there is a segregated footway that provides a reasonable feeling of safety during daylight hours. However, this is not a pleasant walk and may be too far for those less able to walk longer distances.
11. Overall, the timings of the nearest bus service and convenience of the access would in my opinion mean that this public transport option, and others that involve further walking distances, are likely to be more limited in their usefulness to users of the proposed development. Cycling options from Maidstone and other settlements to the site would also be unattractive to many as it would involve sharing space with vehicular traffic on the A20 for at least part of the journey.

12. The Appellant has submitted a travel plan that includes a range of sustainable travel measures and initiatives that will assist in minimising car usage to a degree, including by visitors and employees. Notwithstanding this, given the nature of the use and the out of settlement location of the site, there is a strong likelihood that the private motor vehicle will be the only viable option for many users of the proposed development and that those without a car would find it hard to access. The submitted travel plan and other measures outlined by the Appellant would not adequately mitigate this issue.
13. I acknowledge that the proposal would have different transport characteristics to general C3 housing, not least as there are additional needs relating to staff and other visitors. Based on the nature of the use many residents of the care home may not be regular car users and some may not be able to venture beyond the site. However, the difference in characteristics and traffic generation does not in itself justify development in an unsustainable location.
14. It is of relevance that the Local Plan identifies the area as being one for significant change, resulting from the allocation of the land around the site at Woodcut Farm for a large scale mixed employment use. Outline planning permission has been given for such a development and is currently extant. This is likely to extensively change the character of the area and also bring with it more activity. Given the relatively early stage of the development and the evidence available, its effects are difficult to predict including whether resulting changes to local infrastructure may improve the accessibility of the site. As such, I am unable to attribute significant weight to this consideration.
15. The Appellant mentions other Local Plan policies which are not included in the reasons for refusal, including Policy DM5 in relation to development on brownfield land. Given the conclusions reached in relation to the location, these policies do not assist in providing a level of flexibility to justify the proposal.
16. In conclusion, the site is outside the strategic framework for focusing housing development in the Local Plan and has a level of accessibility that would leave many users of the proposal reliant on the private motor car to access it. The evidence does not indicate that suitable mitigation could be put in place or that the site could otherwise be made sustainable.
17. As such, the location of the proposed development is not appropriate when regard is had to local and national policy. Consequently, there is conflict with policies in the Local Plan, in particular Policies SS1, SP17 and DM14 which collectively seek to direct such development towards sites within the boundaries of defined settlements.
18. The Council's first reason for refusal references Local Plan Policies DM1 and DM30 which relate to design and are less relevant to the principal of the location of development. Further consideration is given to effects on character and appearance, including design, in Other Matters.

Living conditions – future occupants

19. In relation to the quality of the outside amenity space, parking and other hardstanding would occupy most of the front of the site, giving this area limited practical amenity value in terms of providing usable outside space. The building has been deliberately designed in a 'H' configuration to provide usable and enclosed amenity space in 2 sizable courtyard areas that would be well overlooked and appropriate for a use of this nature. The building would also be set back from the rear boundary to provide a more secluded space that could also provide further outdoor amenity space as needed.
20. Overall, whilst landscaping would be the subject of later approval, the amount, location, and distribution of outside space would be capable of providing good quality amenity space for future occupants of the proposed development. The configuration of outside space proposed is also logical when regard is had to its relationship with the roads and the adjacent employment site. Consequently, I do not find conflict with Policy DM1 of the Local Plan which seeks to secure adequate residential amenities for future occupants of developments.

Other Matters

Character and appearance

21. Whilst not included as a reason for refusal, Local Plan policy also places an emphasis on protecting the rural characteristics of the borough and the integrity of settlement patterns. When regard is paid to the changing context of the area around the site resulting from the development at Woodcut Farm, a three-storey building of the scale, site coverage, and other design elements proposed would not be harmful to the character of the area. Although the proposal would bring with it increased areas of hardstanding, there is a reasonable prospect that a landscaping scheme approved at the reserved matters stage could make satisfactory provision for the preservation and planting of trees and other hard and soft landscaping to assist with assimilating the development into its surroundings.
22. As the appeal site is open to more distant views from parts of the North Downs Area of Outstanding Natural Beauty (AONB) I have considered whether its setting would be conserved or enhanced. The proposed employment use is likely to obscure views of the site from the AONB in the longer term. In the shorter term, the trees and other landscaping at the rear boundary of the site would serve to limit the perceived scale of the proposed development and provide an element of screening that would reduce its overall impact. As such, the natural beauty of the AONB would be conserved.

Housing delivery

23. I am mindful that the Framework places emphasis on the Government's ambition to significantly boost housing supply and to plan for the needs of different groups. This includes older people, where the need is acknowledged in national guidance as being critical¹ in order to meet the different demands of an aging population.

¹ Reference ID: 63-001-20190626 (26 June 2019)

24. The Appellant draws my attention to figures in the Council's Strategic Housing Market Assessment that outlines a need for the equivalent of 49 nursing and care home bed spaces per year across the borough. The Council's latest Annual Monitoring Report indicates under delivery.
25. Although the Local Plan does not allocate sites to meet the need, there is no specific requirement for it to do so and past delivery does not provide conclusive evidence that it will not improve in the future. Further, the soundness of the overall approach in the Local Plan would have been tested as part of its adoption and could be looked at again in subsequent reviews as part of taking a strategic approach towards meeting the overall development needs of the borough.
26. Notwithstanding this, and considering this matter in the round, I attribute some positive weight to contribution that the proposal would make towards the delivery of housing designed to meet the needs of some older people in the borough and wider housing delivery objectives.

Planning Balance and Conclusion

27. I have concluded that the location of the proposed development is not appropriate when regard is had to local and national policy. Conditions, including those designed to secure compliance with the Appellants submitted travel plan and aimed at restricting use of the development for any residents with cars would not mitigate the harm to an acceptable degree and the evidence does not demonstrate that the location could otherwise be made sustainable.
28. The level of harm should be weighed against the benefits of the proposed development. Of particular relevance is the contribution that the proposal would make to boosting the supply of housing to meet the needs of some older people in the borough and wider housing objectives, which attracts positive weight.
29. The potential employment and health care benefits referenced by the Appellant are not widely evidenced and therefore attract limited weight. The environmental benefits are neutral matters given the existing use and nature of the site.
30. Whilst I acknowledge the benefits, they do not provide justification for giving reduced weight to policies that provide a clear strategic approach towards where development in the borough should be located, including housing. To do so would conflict with a core planning principle in the Framework that planning should be genuinely plan led.
31. For the above reasons and having regard to all other matters, the appeal is dismissed.

D. R. McCreery

INSPECTOR

Appendix C – White Heath DAS



DESIGN AND ACCESS STATEMENT For an Outline Planning Application

White Heath
Ashford Road
Hollingbourne
Maidstone
ME17 1XG

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Appendices

Appendix A – Pre-planning advice proposals November 2018

Appendix B - Material exhibited at the public consultation

PRE-PLANNING DESIGN STATEMENT

1.0 INTRODUCTION

This Design and Access Statement has been prepared in provision of an outline planning application for a care home (Use Class C2) submitted to Maidstone District Council. The outline application seeks approval for appearance, means of access, layout and scale.

This Document should be read in conjunction with the supporting documentation accompanying the application being drawings:

- L300/045- E01 Existing - Site Plan
- L300/045- E02 Existing - Visual Impact
- L300/045- E03 Existing – Site Photographs
- L300/045- L01 Location Plan
- L300/045- P01 Proposed - Site Plan
- L300/045- P02 Proposed – Ground Floor Plan 1/100
- L300/045- P03 Proposed – First Floor Plan 1/100
- L300/045- P04 Proposed – Second Floor Plan 1/100
- L300/045- P05 Proposed – Roof Plan 1/100
- L300/045- P06 Proposed - Elevations 1/100
- L300/045- P07 Proposed - Elevations 1/100
- L300/045- P08 Proposed – Context Elevations 1/150
- L300/045- P09 Proposed - Visualisations
- L300/045- P10 Existing and Proposed – Site Comparison
- L300/045- P11 Proposed - Visibility Splays
- L300/045- P12 Proposed - Masterplan

and specialist reports:

- Transport Statement prepared by TPA
- Travel Plan prepared by TPA
- Ecology Appraisal prepared by Eco-consult
- Tree Survey prepared by BHA Trees
- Arboricultural Method Statement prepared by BHA Trees
- Arboricultural Impact Assessment prepared by BHA Trees
- Mineral Assessment Report prepared by GWP
- Planning Statement prepared by QED Planning
- Market Needs Assessment prepared by CBRE

1.1 CLIENT VISION

A statement from Berkley Care Group whom will be the operator of the care home:

“Berkley Care Group own and manage a small number of high quality homes in the South East of England and are committed to continue to provide residents with exceptional care in modern high quality buildings. Each home is specifically designed to exceed the current regulatory requirements and provide a beautiful internal environment for residents, their family and staff. Our proposed design for White Heath reflects this approach. Most essentially the designs provide for a healthy and caring environment that meets and exceeds the expectations of staff and residents alike. One of the main driving forces of design is to ensure the environment promotes wellbeing among the residents.”

A selection of the Berkley Care Group care homes include:

- Beaufort Place, Cribbs Causeway – 73 beds (due for completion autumn 2019)
- Portobello Place, Chartridge, – 61 beds (due for completion summer 2019)
- Cumnor Hill House, Oxford – 72 beds
- Shinfield View, Shinfield – 66 beds
- Ryefield Court, Hillingdon – 60 beds
- Leycester House, Warwick - 78 beds
- Groveland Park, Bexleyheath - 53 beds

2.0 LOCATION

The site address is White Heath, Ashford Road, Hollingbourne, Maidstone, ME17 1XG.



The site is situated approximately 6 km East of Maidstone town centre and approximately 200 metres south-west of the M20, Junction 8. It is accessible from Ashford Road (A20) which forms the southern boundary.

3.0 FEATURES AND CHARACTERISTICS OF THE SITE

The boundary is formed of well-defined mature trees and large hedges enclosing the numerous existing building within the curtilage that form both the dwelling and an aviary. This has developed in a piecemeal pattern to the North (rear of the principle elevations) of the property.

Directly adjacent the site to the North-East is the neighbouring dwelling, which is a two storey, timber clad and has a pitched roof.

The site is surrounded directly to the North and West by arable farmland. An outline planning application (Ref: 17/502331/OUT) has been granted for the development of a 'mixed commercial development comprising B1(a), B1(b), B1(c) and B8 units' and has informed the design development, as shown in drawing L300/045- P12. Work on this site has not yet commenced.

Drawing L300/045- L01 shows the location of the existing site in its wider context. The site is in a Flood Zone 1 and is not within a Conservation Area, the existing building isn't listed or locally listed and therefore is not considered a heritage asset.

3.1 ECOLOGY

Ecoconsult Ltd carried out a Preliminary Ecological Appraisal for the site and accompanies the application.

In summary the following recommendations are made and will be implemented

- The habitats affected by the proposed work are common and have low ecological value.
- The buildings on site provide negligible potential to support roosting bats.
- Cavity wall bat boxes and bird boxes will be incorporated into external walls of the new building.
- A reptile mitigation strategy, based on habitat manipulation will be carried out on affected areas of habitat prior to works commencing.
- The tree with low potential to support roosting bats will be retained.
- Nesting birds will use hedgerows, scrub and trees on site to nest. Nesting birds and their nests are protected under the Wildlife and Countryside Act 1981 (as amended).
- The proposals will lead to a small net loss to biodiversity of -0.04 biodiversity units.

Based on the above it is considered that the proposed development will not harm any existing protected species, and will in fact offer the opportunity to increase the biodiversity value of the site

4.0 PLANNING POLICY

Matters relating to planning policy are addressed in the Planning Statement prepared by QED Planning which accompanies this application.

4.1 PRE-PLANNING ADVICE

Concerning the development proposals, Hay Associates have engaged in pre-application discussions with Maidstone Borough Council (MBC) being:

Proposal submitted in November 2018

MBC comments received included:

- Potential noise, disturbance and general activity resulting from the commercial uses/activities within the units on the adjoining Woodcut Farm site
- The proposed three-storey care home development would not be considered to have an unacceptable harmful visual impact
- No overriding concerns are raised in principle to a three-storey flat roofed contemporary building in terms of design.
- No overriding concerns are raised in principle to the proposed site layout.
- Existing trees to the site boundaries should be retained in the development... ..and new tree and shrub planting should be provided to enhance the existing.

- The proposed care home development of the site is unlikely to result in any overriding unneighbourly impact issues.

The proposal can be viewed in Appendix A of this document.

4.2 COMMUNITY INVOLVEMENT

A Public Consultation was held at the Hollingbourne Village Hall in Eyhorne Street on Tuesday 26 March 2019 and provided feedback to help inform the final design in preparation for the submission of the planning application.

The consultation was well attended and provided some insight into key issues:

- Concerns about the amount of on-site parking and care home residents parking for the size of development proposed.
- Generally very positive comments on the scheme Local residents felt there was a need for a new care home
- Layout and facilities within the care home were excellent.
- Outside areas looked good and spacious
- Pleased to know care home would interact with local community (possible space for WI meetings etc.)
- Good to hear a smaller boutique operator to run the home
- One lady questioned whether there was enough parking
- What were our intentions to deal with noise and air pollution?

The material exhibited at the public consultation can be viewed in Appendix B of this document.

4.3 NEED

In support of the proposed development, the applicant has commissioned a Market Needs Assessment undertaken by CBRE to substantiate the level of competition for market standard bed spaces within the Maidstone District and a suitable catchment area of the application site. This report adopts a robust methodology to consider the existing and future demand and supply for care home bedrooms.

A copy of the Assessment is provided with this application and concluded in the Maidstone District a current shortfall of 118 bed spaces and a shortfall of 430 market standard bed spaces and also an unmet need within a market catchment of the site (defined as a 5-mile area). The current need is equivalent to 117 market standard bed spaces,

5.0 PROPOSAL

In summary, the application site seeks to demolish and replace the existing property with a 79-bed care home (Use Class C2) for residents requiring nursing, dementia and residential care, along with car parking, landscaped gardens and separate refuse/recycling facilities.

5.1 AMOUNT OF DEVELOPMENT

The total site area measures circa 0.5325 Hectares (1.3 Acres).

The proposed care home building comprises 79 single occupant bedrooms with en-suite shower room, set over three floors.

5.2 ACCOMMODATION

The size and amount of accommodation has been designed having regard to the need to:

- 1) Provide facilities required by the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010, National Minimum Standards for Care Homes published by Care Quality Commission and Part M of the Building Regulations.
- 2) Provide spatial standards greater than the minimum requirements of the Care Quality Commission *Essential Standards of Quality and Safety* – March 2010 in order to match current market standards and expectations. This sets out to ensure the long-term viability and economic sustainability of the care home.

- 3) Provide a range of sizes and types of facilities and accommodation to meet the varying needs of all elderly residents.

The *Essential Standards of Quality and Safety* document guidance states, “For new build care homes and other care homes seeking to register for the first time, bedrooms are no smaller than 12 square metres.” The care bedrooms illustrated in this application have an average area of 18.5 square metres being of a size and shape that supports their lifestyle, care, treatment and support needs. Further, being in excess of the minimum requirement assists in providing a development fit for future changes in the regulations, which may occur.

Each floor has a communal lounge area with kitchen facilities and dining facility, which measures approximately 7 square metres per resident in floor area. Within the hub to each floor, there would also be a nursing station (including drug store) and sluice room, an assisted bathroom, disabled WC and storage.

Supporting accommodation containing a managers and administration office. A separate staff-access only area accessed from ground floor provide offices, staff rest room, staff changing facilities, main kitchen, laundry, plant room and stores.

The Care Home contains shared communal facilities comprising:

Entrance Lobby
Reception
Visitor disabled WC
Bistro
Bar
Cinema
Hair Salon
Private Dining Room
Gym

5.3 SCALE

The building forms proposed within the scheme are designed to ensure that its impact on the countryside and the amenity enjoyed by neighbouring properties is minimised. It has taken into consideration the outline planning application Ref: 17/502331/OUT which surrounds the site to the North and West, significantly altering the characteristic of the existing site whilst respecting the scale of the neighbouring property to the east.

Care Home Stats:

Number of floors: 3
Ground Floor (datum level) – circa +53.00m
Floor to Floor Height – 3.00m
Height to eaves (datum level) – circa +9.15m above Ground Floor

5.4 LAYOUT

The layout of the site has several key factors:

- Provision of a clear and separate means of access to the Care Home with provision of car parking, cycle store and refuse store to the front of the development. Disabled parking is located adjacent to the front entrance
- The entrance is positioned in a clear legible position, south facing and connected to a communal bistro/ bar area which opens onto a south east facing garden.
- The organisation of the building is logical and simple to provide a clear, legible internal environment.
- The building has been located on the site to clearly define and segregate the private amenity spaces associated with the building from the public realm.
- Ensure the building aspect and massing do not conflict with existing properties adjacent to the site.
- Ensure the built zone of the site occurs away from retained trees where possible.

- Provide a clear definition of private and public spaces with secure private gardens around the care home.
- Car parking provided to the front of the site.
- Access onto the site from a newly formed access point off Ashford Road.

5.5 APPEARANCE

The approach to the design and appearance of the buildings and spaces is contemporary in its approach to producing an environment to provide excellent care. In summary the key materials to be used would be as follows (to be agreed with the LPA):

- Facing brickwork with brick soldier course detailing.
- Flat roofs utilised to reduce massing and emphasise contemporary design along with the inclusion of green roof principles.
- Pattern of glazing is simple and clear in its layout
- Recessed brick panels to provide articulation in the elevation.
- Large energy efficient glazing provides natural daylight internally.

5.6 LANDSCAPING OVERVIEW

The landscape proposals of this development are focused on providing a safe, comfortable and stimulating environment for the residents, their guests and all those who spend time here.

The layout of the gardens provides three main gardens, the northern garden, the eastern courtyard and the western courtyard which connect to the Dayspaces at Ground Floor Level. Both private and communal spaces are provided at a variety of scales so that residents can choose to socialise together or spend time alone. Allowing residents to participate in their community to whatever extent they choose.

Retention of the existing boundary trees will be key to establishing the care home in its setting with the built zone of the site occurring central to the site, re-establishing a clear plot-grain ratio.

Simple, easily navigable spaces provide a reassuring environment where residents can be free to wander without fear of becoming disorientated and anxious. Access will be for all residents and staff with clearly defined, level paths and hard surfaced areas inviting users out into the gardens with obvious destinations, plentiful seating and additional spaces for wheelchairs. The design provides ample space for group activities and larger gatherings. With these elements considered, the outside spaces will provide a valuable resource, creating an intuitive, and imaginative environment that can improve the mental, social and physical wellbeing of every user.

A detailed landscape proposal does not form part of this outline planning application and would be subject to a subsequent reserved matters planning application explaining the appropriate use of plants, trees, non-slip materials, level thresholds adequate provision of seating and sensitive use of external lighting make for a safe but interesting external environment.

5.7 TREES

There are a number of trees on site, which was an important contributing factor in the design development, informing both the position and extent of development proposed. None of the trees are subject to a Tree Preservation Order. For the limited number of trees being removed, the justification is addressed in the Tree Survey and Impact Assessment report is included within this application, undertaken by BHA Arboricultural Consultants.

5.8 IMPACT ON STREET SCENE/VISUAL AMENITY

It is important to note that the site does not fall within any specially designated landscape or setting, such as a Conservation Area, AONB or are of High Landscape Value.

The application site itself is relatively well screened from public view and matters are illustrated on drawing L300/045-E02. Furthermore, the existing trees and hedging which run along the various

boundaries of the site, which are proposed to be retained, will provide a significant screen around the site when viewed from the further afield.

Existing boundary planting and trees provide an existing screen between the site and the neighbouring uses, and where possible this has been retained to continue providing an effective screen and boundary treatment surrounding the proposed new development.

The proposed development has been located within the plot to ensure sufficient distance is provided between the proposed new care home and the existing development, therefore no issues of over-looking or loss of privacy will arise because of the proposals.

6.0 EXTERNAL ACCESS AND CAR PARKING

Access to the site would be via a newly formed access point on Ashford Road (A20) with visibility splays as shown on drawing L300/045- P11. The scheme currently proposes 31 car parking spaces including two disabled spaces and turning heads in line with the Kent and Medway Structure Plan 2006: SPG4 parking Standards for Use Class C2 developments.

The development will also include cycle parking stands near to the main entrance of the care home offering the opportunity to travel to the site by sustainable modes.

As can be seen on the proposed site plan drawing an external bin store is provided within the site where the refuse will be collected by a private company. The refuse store will be fully enclosed and secure.

Berkley Care's operating model includes the provision of a small fleet of vehicles to pick up and drop off staff and residents. This comprises a small car for 4 or less people with full mobility, a larger car for 5 people with or without limited mobility and a wheelchair accessible 16-seater mini bus for moving larger groups of staff or residents and connecting them with key transport nodes based around their shift pattern. This provision is made in all the care homes operated by Berkley Care (including within schemes occupying a comparable location to the subject site).

This allows for an efficient and flexible service that is under the operator's direct control and which can be adapted to suit the needs and requirements of staff and residents. Due to the timing of staffing rotas, all shared journeys take place outside of peak traffic flow times, unless it is an organised resident outing. All the vehicles are brand new at the point of the home opening and replaced every 3 years, this ensures that the vehicles that are undertaking the trips outlined above produce the minimum carbon and emission footprints possible.

The car parking management has been designed to ensure that there is adequate provision at all times for relatives, families, staff and emergency services to parking spaces and the need to park on the street adjacent to the home is completely eradicated.

- Due to the dependency level of the residents they will not have access to vehicles thus there is no requirement for dedicated car parking.
- Two disabled/emergency care parking spaces are available in the car park and highlighted with yellow paint. These spaces are strictly allocated to ambulance and other emergency services when the need arises. They may be used for the drop off of disabled or frail residents. At least one of these spaces will be made available to disabled users at all times.
- Staff will be encouraged to travel by train, bike on foot or by public transport or by the minibus supplied by the home. Staff wishing to park in the car park must ask consent from the management in advance.
- During busy periods (events and parties) the car park will be manned by a car park attendant who will help and assist with parking.
- Families who are moving residents and their furniture into the home will be allocated a dedicated space in advance. Residents will be informed in advance of any large deliveries to the home.

Matters relating to transport are addressed in the Transport Statement prepared by TPA which accompanies this application

6.1 INTERNAL ACCESS

The issue of access for wheelchairs and people with mobility aids has been considered throughout the design of the development.

Design measures have been incorporated within the development include:

- Level access at all external entrances and exits.
- Level access gardens with suitable external finishes.
- Internal corridors of sufficient width to enable two wheelchairs to pass at frequent intervals.
- Bedrooms designed to be fully wheelchair accessible with level access ensembles, etc.
- Lift access to all floors.
- Public areas of the building designed in accordance with Part M of the Building Regulations.

6.2 SECURITY

The proposed care home has been located on the site to clearly define and segregate the private amenity spaces associated with the building from the public realm. The boundaries with the existing adjoining properties will be retained and reinforced with new shrub planting to the care home garden. The main entrance to the building will have digital locking entry system and CCTV cameras and the receptionist and manager offices are immediately adjacent to the main entrance lobby to ensure that entry to the building is subject to good security control.

7.0 MANAGEMENT OF THE BUILDING

The building will be staffed 24 hours a day.

There will be three shifts in operation and part-time staff will also be employed. The shift patterns for nursing and care assistant staff are 8.00am to 2.00pm, 2.00pm to 8.00pm and 8.00pm to 8.00am. In addition other staff (administration and cleaning staff) work 9.00am to 5.30pm. Part time care assistants work more flexible times to suit i.e. at peak times within the main shifts. As a consequence of these staffing patterns those staff who use cars will arrive at staggered times during the course of the day.

The following approximate total staff numbers and staff categories are anticipated to be utilised within each department of the Home.

<i>Job Description</i>	<i>Full Time Staff</i>
<i>Manager / Deputy</i>	<i>5</i>
<i>Qualified Nurse</i>	<i>10</i>
<i>Care Assistant</i>	<i>60</i>
<i>Domestic / Laundry Staff</i>	<i>8</i>
<i>Kitchen Staff</i>	<i>6</i>
<i>Maintenance Staff</i>	<i>2</i>
<i>Hospitality Staff</i>	<i>6</i>

Ratio of staff to patients: The following framework is a practical ratio of staff to patients:

<i>Time period</i>		<i>Staff</i>	<i>Patients</i>
<i>8.00 am - 2.00 pm</i>	<i>ratio of</i>	<i>1</i>	<i>5</i>
<i>2.00 pm – 8.00pm</i>	<i>ratio of</i>	<i>1</i>	<i>6</i>
<i>8.00 pm - 8.00 am</i>	<i>ratio of</i>	<i>1</i>	<i>10</i>

Service and emergency access to the buildings will be from Ashford Road.

8.0 SUSTAINABILITY

The operational energy consumed in the life of a building is by far the biggest contributor to its carbon emission levels. This scheme for the proposed care home focuses primarily on basic and proven sustainable design principles such as: optimum orientation of facades; appropriate glazing ratios; good daylighting balanced with control of solar gain; opening windows and natural ventilation wherever possible; thermal mass and night time purging where appropriate; high levels of insulation.

Only once the above have been fully considered and reduced to a sensible minimum is consideration given to renewable technologies to make-up any gap in energy requirement.

Sustainable Design Elements:

Embodied energy - consideration has been given to this other important aspect of carbon footprint. Building mass, through its concrete floors and building structure will retain heat through the winter months and help the total building act as a 'heat store'. Higher levels of insulation than those demanded under the Building Regulations will provide cooling in summer months thereby reducing energy consumption during both extreme natural climate conditions.

Renewable energy – Consideration will be given to the most appropriate form of renewable energy technologies which could be integrated within the proposed care home. A number of options will be considered, including solar PV, solar thermal, biomass, combined heat and power pumps and wind.

Materials selection - materials will be selected for their sustainable credentials and every attempt would be made to use local sources and supply chains to ensure that transport emissions are kept to a minimum. Timber will be from sustainably managed sources.

Waste - the building has been designed in such a way that its construction is simple, pragmatic and 'lean' to avoid excessive waste. Partial prefabrication off-site would also be considered as a means of improving quality and avoiding waste. (e.g. facade panels).

Lighting - windows designed to provide good day-lighting and to meet the Environmental Standard target daylight factors. This will reduce energy demand for artificial lighting whilst avoiding excessive heat-loss in winter months. It will also produce a care home which is more attractive and a pleasant place in which to reside and work. Areas requiring artificial lighting will be equipped with low energy fittings and lamps.

Energy Efficient White Goods - Electrical appliances particularly for the kitchen and laundry facilities within the development will be selected and installed which provide A ratings under the EU Energy Label Scheme.

Water - low-use fittings for showers and toilets will be specified. Rainwater will be harvested for irrigation of the garden but at present greywater recycling will not be included in the scheme as it is considered uneconomic for this development. The economics are related to the non-concentration of sanitaryware facilities and although the pipework would be separate from the potable supplies there is a risk that misplaced connections would contaminate water in an extremely vulnerable group.

Durability and cost – the development is designed to be practical, robust and durable as well as architecturally pleasing. By focusing on simplicity of form it is felt that buildings can be detailed and constructed more effectively. Materials will be chosen that achieve an appropriate balance between capital and maintenance costs

9.0 CONCLUSION

The proposed scheme which is the subject of this pre-planning application has been designed to incorporate the following features:

- Will enable the development of a building which provide exemplary care accommodation.
- There is an ageing population both nationally and locally, and the need for elderly care accommodation is growing rapidly. This proposal will help to meet this need in the local community, which the operator has identified.
- This proposal makes effective and appropriate use of a brownfield site.
- In addition, and notwithstanding the limited views of the site, particular care has been taken in the design of the building to minimize any visual effect on the openness of the countryside. To this end the main part of the proposed building is well screened by existing boundary planting which will be reinforced by a comprehensive landscaping scheme.
- The overall sensitivity of the surrounding area to visual impact is therefore considered to be low and therefore any development is unlikely to be visible outside of the application site and no adverse impact on the openness of the countryside location and not detrimental to the setting or character of the area.

DESIGN AND ACCESS STATEMENT

Appendix A – Pre-planning advice proposals November 2018

ASHFORD ROAD

NEW ENTRANCE PROPOSED ONTO HIGHWAY.



EXISTING ENTRANCE REDIRECTED INTO ADJACENT SITE (SUBJECT TO AGREEMENT).

<p>note:</p> <p>this drawing is to be read in conjunction with all other relevant architectural drawings.</p> <p>drawing not to be scaled. use figured dimensions only. all dimensions to be checked on site by the contractor prior to the commencement of any work or specialist production drawing. any discrepancies to be notified to hay associates and further instructions obtained before work is commenced.</p> <p>copyright © hay associates limited</p>	<p>KEY TO SYMBOLS</p>	<p>BOUNDARY LINE</p>	<p>BUILDINGS</p>	<p>PROPOSED PLANTING/GRASS (subject to detailed landscape design)</p>	<p>PROPOSED FOOTPATH (subject to detailed landscape design)</p>	<p>PROPOSED PATIO (subject to detailed landscape design)</p>	<p>EXISTING TREE REMOVED</p>	<p>EXISTING TREES/PLANTING</p>	<p>PROPOSED TREES (subject to detailed landscape design)</p>
	<p>1 The Holmes - Skipton North Yorkshire - YO8 5SL t: 01757 282547 e: info@thehayassociates.co.uk w: www.thehayassociates.co.uk</p>	<p>ha hay associates limited</p>	<p>client: Lawrence Land Limited</p> <p>project: White Heath, Ashford Road, Hollingbourne ME17 1XG</p> <p>title: Proposed - Site Plan</p> <p>scale: 1:200@A1 date: Oct' 18 drawn: mh checked: mh</p> <p>job no.: L300-045 drawing no.: PA01 revision: A</p>	<p>rev. note. date</p> <p>A: CAR PARKING UPDATED 18.02.19</p>					

PA03
1.0

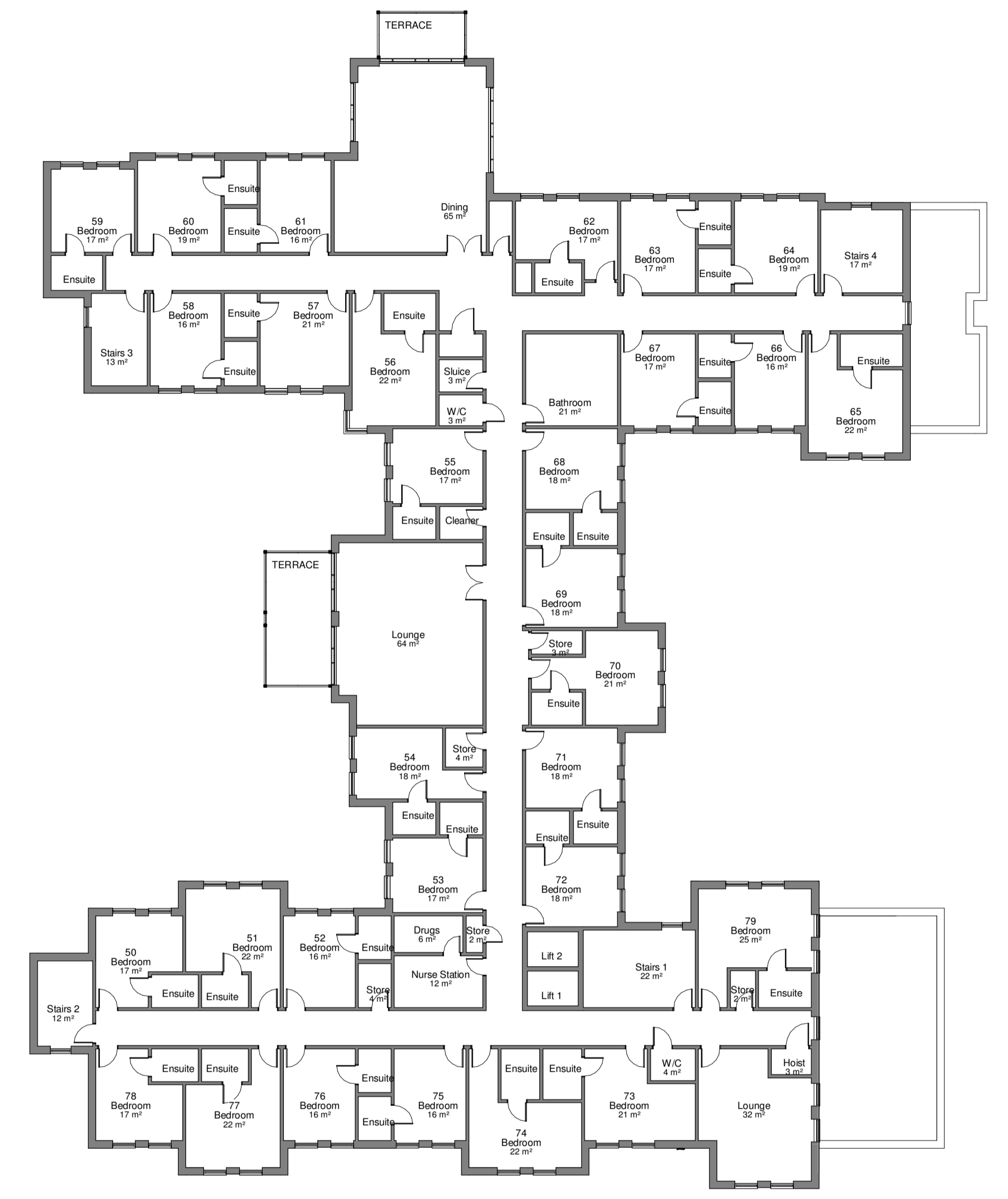


0.0 Ground Floor Plan
1 : 200
22 BEDROOMS

PA03
3.0



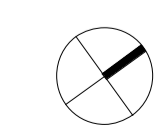
1.0 First Floor Plan
1 : 200
27 BEDROOMS



2.0 Second Floor Plan
1 : 200
30 BEDROOMS

NOTE:
this drawing is to be read in conjunction with all other relevant architectural drawings.
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w: www.theyayassociates.co.uk



REV.	NOTE	DATE
Client	LAWRENCE LAND LTD	
Project	White Heath, Ashford Road, Hollingbourne ME17 1XG	
Title	Proposed Floor Plans	
Scale	1 : 200	Date 26.10.18
Project No.	Drawing No. PA02	Revision
	Drawn by MH	Checked by MH



1.0 North
1 : 150



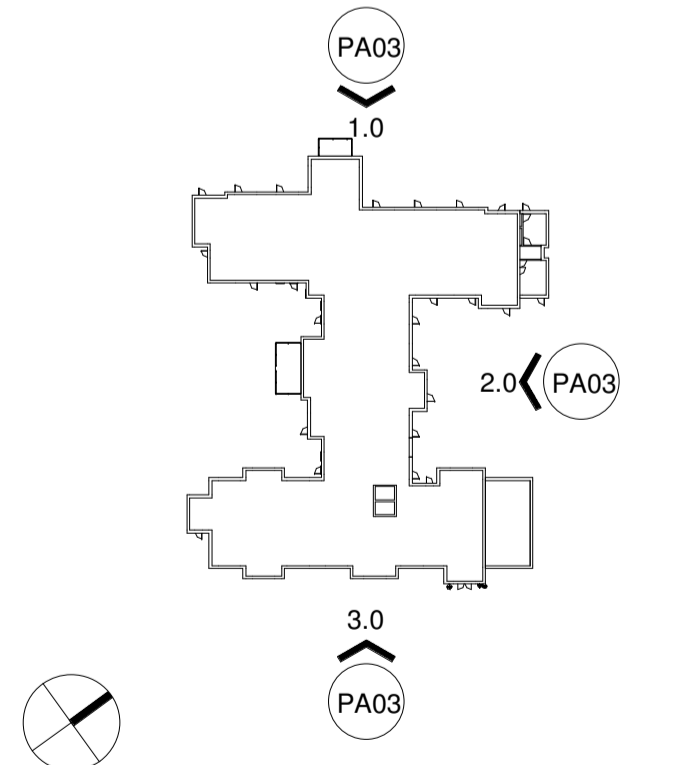
2.0 East
1 : 150



3.0 South
1 : 150

DASHED LINE INDICATES OUTLINE
OUTLINE PLANNING APPLICATION (REF:
17_502331_OUT) PLOT D1.

DASHED LINE INDICATES OUTLINE
OUTLINE PLANNING APPLICATION (REF:
17_502331_OUT) PLOT B4.



Location
1 : 1000

note:
this drawing is to be read in conjunction with all other relevant
architectural drawings.
drawing not to be scaled. use figured dimensions only. all
dimensions to be checked on site by the contractor prior to the
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any discrepancies to be notified to hay associates and further
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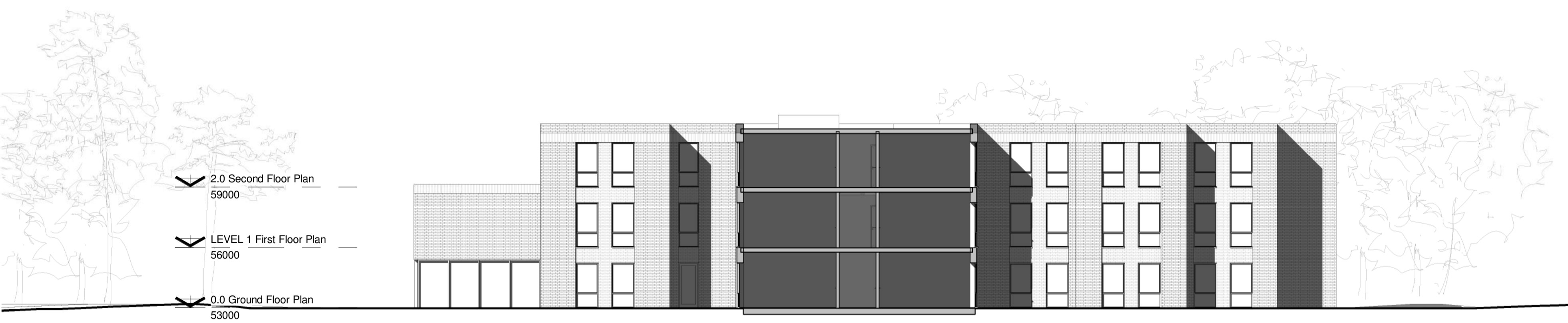


REV.	NOTE	DATE
Client	LAWRENCE LAND LTD	
Project	White Heath, Ashford Road, Hollingbourne ME17 1XG	
Title	Proposed Elevations	
Scale	As indicated	Date 26.10.18
Project No.	Drawing No. PA03	Drawn by MH
		Checked by MH
		Revision

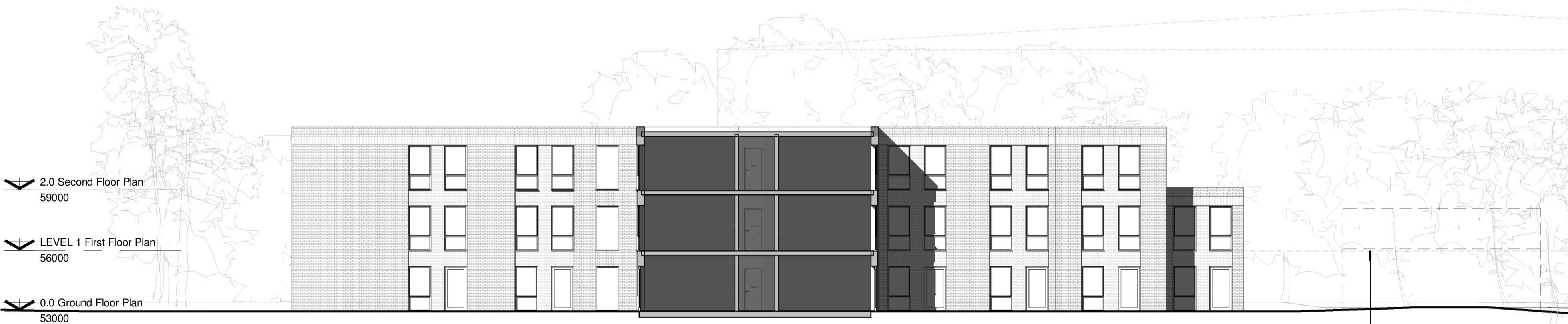


4.0 West
1 : 150

BLACK DASHED LINE INDICATES OUTLINE OF NEIGHBOURING PROPERTY.
DASHED LINE INDICATES OUTLINE OF DEMOLISHED EXISTING BUILDING.



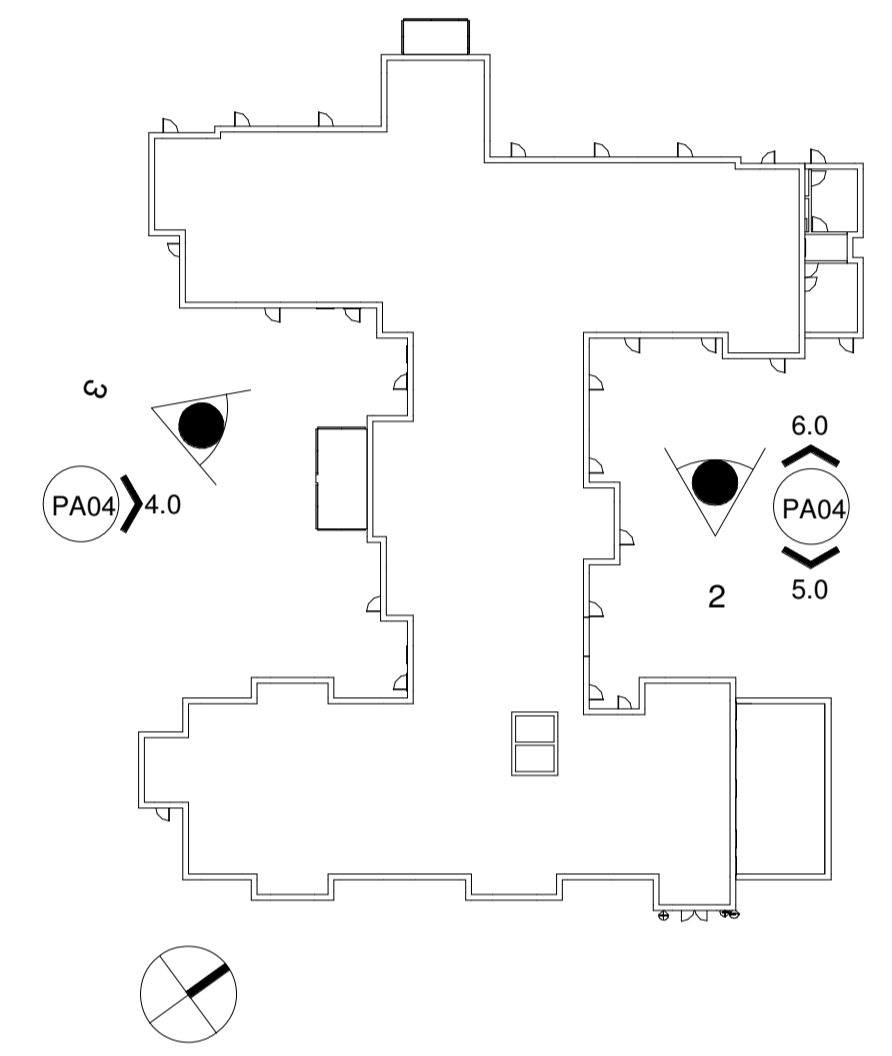
5.0 North Facing Courtyard Elevation
1 : 150



6.0 South Facing Courtyard Elevation
1 : 150

DASHED LINE INDICATES OUTLINE OUTLINE PLANNING APPLICATION (REF: 17_502331_OUT) PLOT B4.

BLACK DASHED LINE INDICATES OUTLINE OF NEIGHBOURING PROPERTY.



Location.
1 : 500



View 1



View 2



View 3

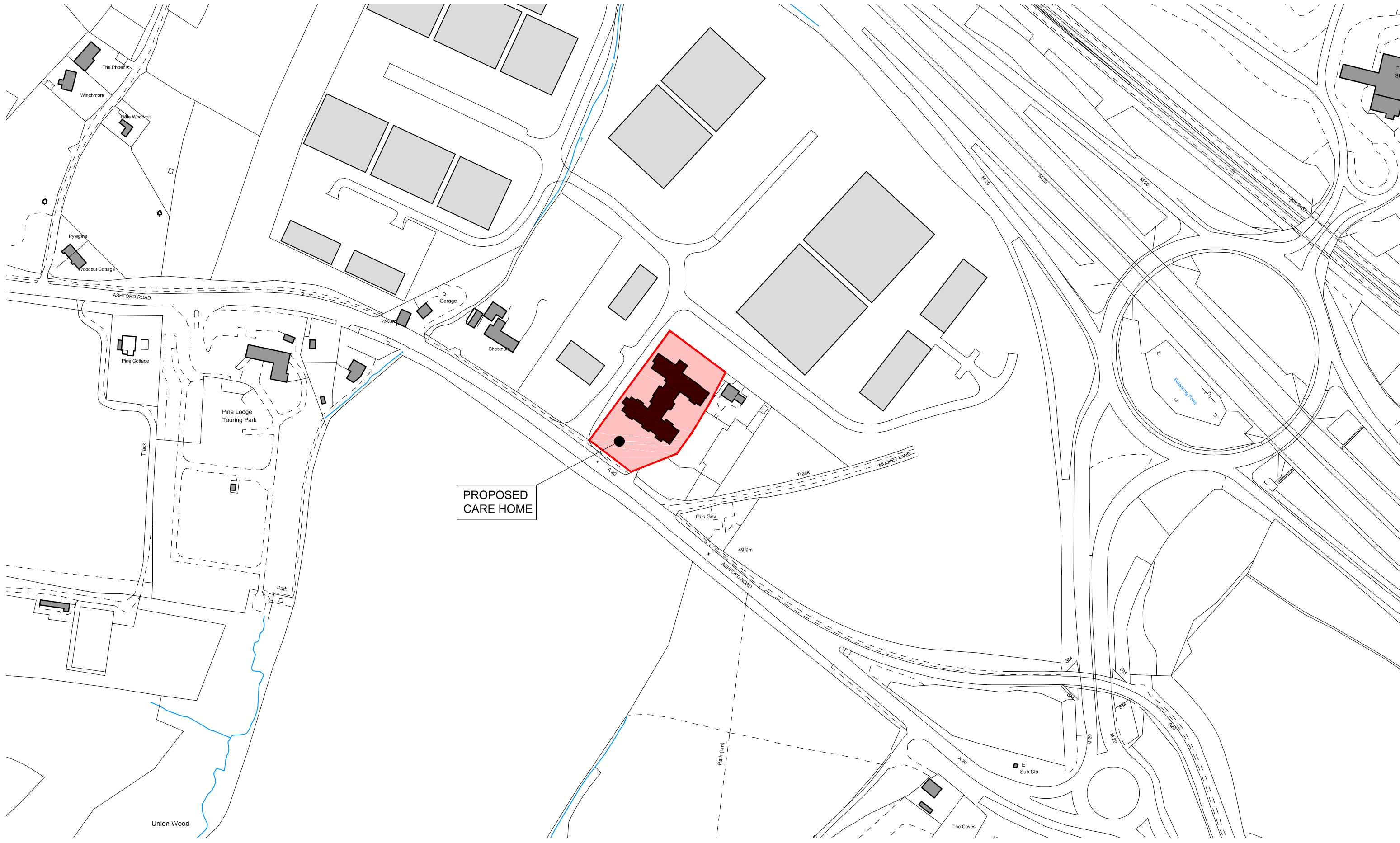


South - Partial Elevation
1 : 75

note:
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REV.	NOTE	DATE
Client	LAWRENCE LAND LTD	
Project	White Heath, Ashford Road, Hollingbourne ME17 1XG	
Title	Proposed Elevations	
Scale	As indicated	Date 26.10.18
Project No.	Drawing No. PA04	Drawn by MH
		Checked by MH



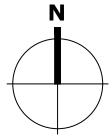
PROPOSED CARE HOME

LEGEND

- SITE BOUNDARY/AREA
 - APPROX LOCATION OF BUILDINGS UNDER PLANNING DECISION
 - EXISTING BUILDINGS
- NOTICE REF: 17/502331/OUT



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rev.	note:	date
client	Lawrence Land Limited	
project	White Heath, Ashford Road, Hollingbourne ME17 1XG	
title	PROPOSED MASTERPLAN	
scale	1:2500@A3	date Nov '18
drawn	mh	checked mh
job no.	L300-045	drawing no. PA05
	revision	-

DESIGN AND ACCESS STATEMENT

Appendix B - Material exhibited at the public consultation



Fig 1. Public Consultation display boards



Fig 2. A Public Consultation was held at the Hollingbourne Village on Tuesday 26 March 2019



New Luxurious Care Home in Hollingbourne

Dear Sir/Madam,

**Berkley Care Group's Proposal for White Heath, Ashford Road,
Hollingbourne ME17 1XG.**

I am writing to let you know about Berkley Care Group's proposals for a modern 79-bedroom care home in Hollingbourne. We would like to invite you to a public exhibition to see our proposals before we send them to the Planners, and to receive any feedback you'd like to give us.

We are proposing to replace the existing buildings with a new care facility that will be designed and built to the highest standards. The proposals stem from an urgent national and local need for enhanced care provision. In addition to providing care for its residents, the new home will also provide excellent employment opportunities for local people. We know from years of experience in providing care that the vast majority of our residents and staff will come from within 10 miles of our homes, so it will sustainably support the local community and economy.

This beautiful new home will be built, owned and operated by Berkley Care Group, who are high-quality nursing and care providers (www.berkleycaregroup.co.uk). Our team consists of experienced individuals with backgrounds as care providers and developers of homes built to the standards people love to live in. Berkley Care Group was established to meet the growing demand for care and support for older people, and to enhance and enrich their lives through the homes they live in.

We appreciate that any proposal for change and development will be of great interest and wish to offer you an early opportunity to discuss our proposals. Therefore, we would like to invite you to attend a public exhibition of the proposals on:

Tuesday 26th March 2019 between 2:00pm and 5:00pm at the Village Hall, Eythorne Street, Hollingbourne ME17 1TR.

The project team looks forward to meeting with you soon.

With kind regards,

Seamus Halton, CEO



BERKLEY
CARE GROUP

White Heath
Ashford Road
Hollingbourne
ME17 1XG
E: seamus@berkleycaregroup.co.uk
W: berkleycaregroup.co.uk

NEW CARE HOME Hollingbourne



First Floor Plan

White Heath, Ashford Road, Hollingbourne ME17 1XG



BERKLEY
CARE GROUP

berkleycaregroup.co.uk

NEW CARE HOME Hollingbourne



Ground Floor Plan

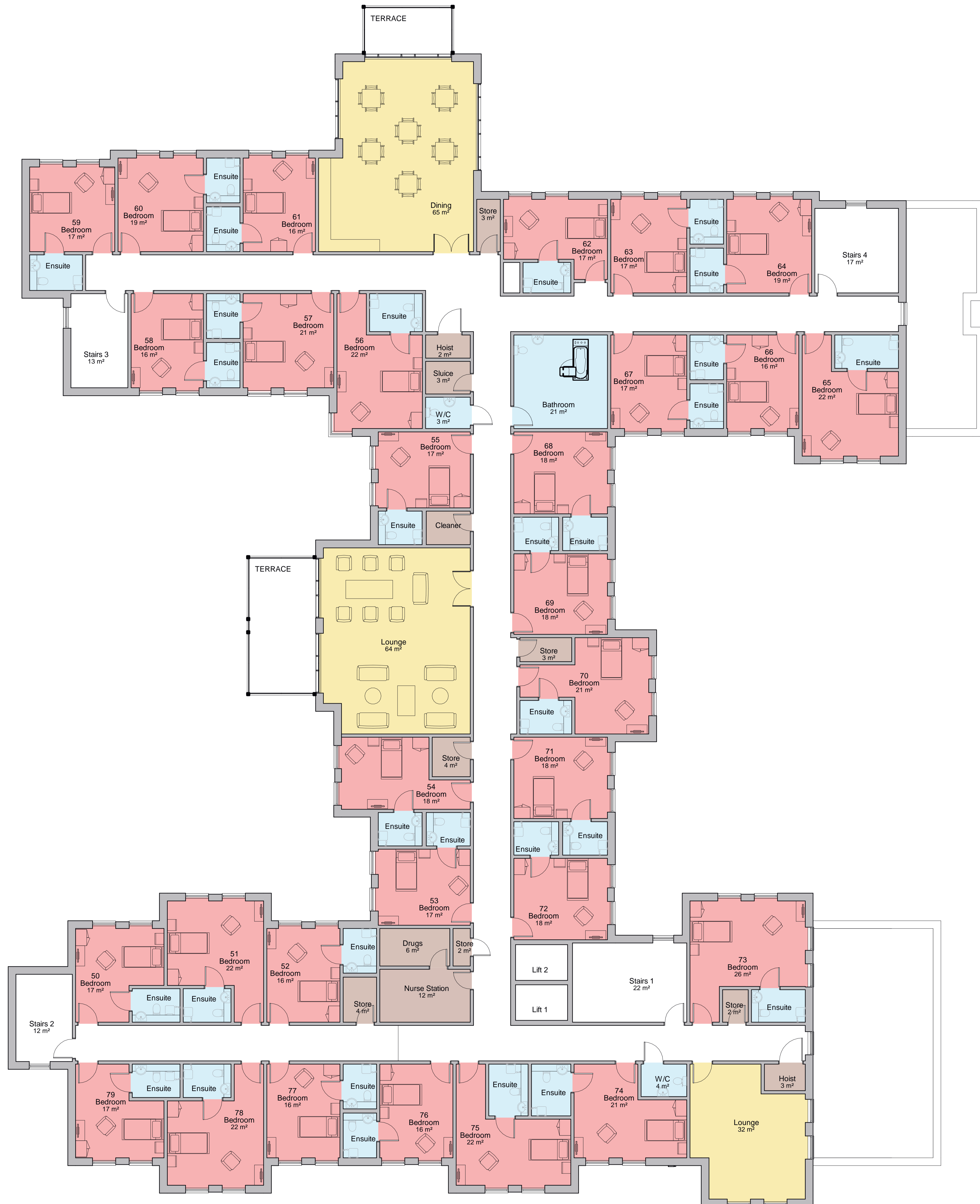
White Heath, Ashford Road, Hollingbourne ME17 1XG



BERKLEY
CARE GROUP

berkleycaregroup.co.uk

NEW CARE HOME Hollingbourne



Second Floor Plan

White Heath, Ashford Road, Hollingbourne ME17 1XG



BERKLEY
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NEW CARE HOME Hollingbourne



Site Plan

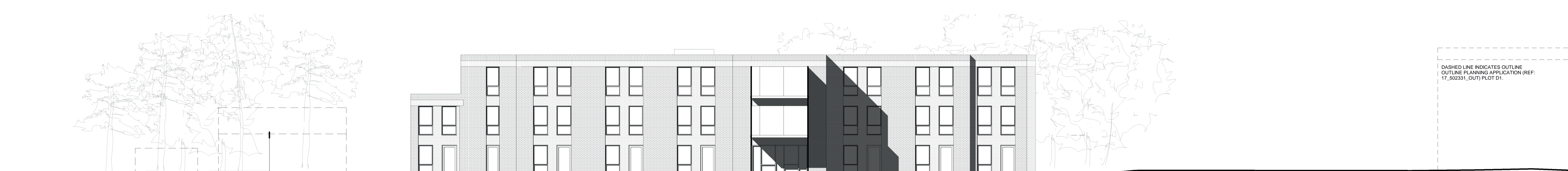
White Heath, Ashford Road, Hollingbourne ME17 1XG



BERKLEY
CARE GROUP

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NEW CARE HOME Hollingbourne



North Elevation
1 : 150



East Elevation
1 : 150



South Elevation
1 : 150

Visualisation & Elevations

White Heath, Ashford Road, Hollingbourne ME17 1XG



BERKLEY
CARE GROUP

berkleycaregroup.co.uk

Appendix D – Northdown Business Park Appeal Decision



Appeal Decision

Site visit made on 15 August 2023

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th October 2023

Appeal A

Ref: APP/U2235/W/22/3302571

Land west of Northdown Business Park, Ashford Road, Lenham, Kent ME17 2DL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by FGS Holdings Ltd against the decision of Maidstone Borough Council.
 - The application Ref 21/505841/OUT, dated 26 October 2021, was refused by notice dated 31 March 2022.
 - The development proposed is Outline application for the construction of up to 2,600 sqm of employment floor space (use classes B2 general industrial, B8 storage and distribution and E(g)(I-III) Offices to carry out any operational or administrative functions, research and development of products or processes and Industrial processes.
-

Appeal B

Ref: APP/U2235/W/23/3323246

Land west of Northdown Business Park, Ashford Road, Lenham, Kent ME17 2DL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by FGS Holdings Ltd against the decision of Maidstone Borough Council.
 - The application Ref 22/505409/OUT, dated 14 November 2022, was refused by notice dated 13 February 2023.
 - The development proposed is Outline application for the construction of up to 1,687 sqm of employment floor space (use classes B2 general industrial, B8 storage and distribution and E(g)(I-III) Offices to carry out any operational or administrative functions, research and development of products or processes and Industrial processes.
-

Decision

1. Appeal A – The appeal is dismissed.
2. Appeal B – The appeal is dismissed.

Preliminary Matters

3. Both proposals have been made in outline with only access for consideration at this stage. Matters of appearance, landscaping, layout and scale have been reserved. Nevertheless, the intended up to level of employment floorspace is specified in the description of the development in each case. Indicative layout plans have been submitted for both appeal schemes and I have treated them as potential layouts which the appellant has in mind, but other layouts would be possible.

4. The appellant has confirmed that for Appeal A, the plans upon which the appellant is seeking approval include the parameter plans¹. It is indicated that should the Inspector determine the appeal proposals acceptable, any future layout will need to comply with these as part of the future reserved matters process. With Appeal A, there is some variation in the submitted documents as to the proposed maximum height of the development. As the Parameter Plan – Storey Heights indicates a max height of 10m I have taken this to be the proposal as part of the Appeal A scheme. With Appeal B, the same approach has been taken by the appellant and for that proposal², the Parameter Plan – Storey Heights shows a max height of 7-8 metres. I have taken this as the maximum height which is proposed for the Appeal B scheme. While these plans may not fix any particular aspect of the scheme at the outline stage that they show, I have treated them as the high level parameters in which the reserved matters submissions would accord.
5. It emerged during the processing of the appeals that the settlement boundary of the Maidstone Borough Local Plan 2017 (the Local Plan) and the Lenham Neighbourhood Plan 2017-2031 (the Lenham NP) differ and that this had not been addressed in the submissions. I gave the main parties the opportunity to comment on this matter and, therefore, there is no prejudice in me considering this information and the responses as part of my assessment of the two appeals.

Main Issues

6. In both appeals, the main issues are:
 - whether or not the development plan would support the proposed employment use in this location, and
 - the effect of the proposal on the character and appearance of the area, including having regard to the proximity and any effect on the Kent Downs Area of Outstanding Natural Beauty (AONB).
7. With Appeal A there is the additional main issue in respect of the effect of the proposal on biodiversity including the ability to deliver biodiversity net gain.

Reasons

Location

8. Policy SS1 of the Local Plan establishes the approach to the spatial distribution of development across the plan area. Maidstone is to be the principal focus of development as the largest and most sustainable location. The settlement hierarchy then includes Rural Service Centres, Larger Villages and outside these settlements the land is designated as countryside.
9. The Local Plan supporting text explains that Lenham provides a good range of local facilities and is the only Rural Service Centre with a secondary school. The village has access to employment opportunities locally, and good rail and bus links to Maidstone and Ashford towns. There is easy access to the A20 which leads to Junction 8 of the M20 motorway. The Local Plan also explains that there are landscape constraints but, despite this, the village is considered the

¹ Paragraph 4.3.5 of the Statement of Case July 2022 for Appeal A.

² Paragraph 3.1.5 of the Planning Statement November 2022 for Appeal B

- most suitable to accommodate the most housing development of all the Rural Service Centres.
10. The text also explains that for the Rural Service Centres appropriately scaled employment opportunities will also be allowed, building on and expanding existing provision in these locations.
 11. The Local Plan Proposals Map shows the settlement boundary of Lenham up to the western boundary of the appeal site and includes the Tanyard Farm housing allocation, such that the appeal site is outside this settlement boundary. The land to the east, which includes the South East Water Depot and the Northdown Business Park, are also excluded from the settlement area. In terms of the Local Plan, therefore, the appeal site falls to be considered as countryside.
 12. The Local Plan also contains Policy SP8 which addresses the approach to development at Lenham. This includes that Lenham is identified as a broad location for the delivery of approximately 1,000 dwellings post April 2021. The Policy explains that housing site allocations and associated infrastructure requirements will be made through the Lenham Neighbourhood Plan or through the Local Plan review.
 13. In respect of the Lenham NP, Policy CP1 sets the policy for countryside protection. It explains that the accompanying Policies Map defines the settlement boundary for Lenham village which has been extended to include the Strategic Housing Delivery Sites. The Lenham NP identifies seven Strategic Housing Delivery Sites. The extended settlement boundary not only includes these identified sites, but also extends to include other land such as housing sites that have been allowed on appeal and an allocation for Nursery Education.
 14. In the vicinity of the appeal site, the settlement boundary identified in the Lenham NP extends further than just the Tanyard Farm allocated housing site in this location. The Proposal Map for the NP, with its settlement area, includes the housing allocation and also the appeal site, the adjoining South East Water Depot and the Northdown Business Park within the settlement boundary. This appears understandable so that the Strategic Housing Delivery Site No 1 (Dean Lewis Estates Ltd) falls within and adjoins the settlement. There is, therefore, a discrepancy between the boundary of the defined settlement between the Local Plan and the Lenham NP.
 15. The National Planning Policy Framework (the Framework) explains that once a neighbourhood plan has been brought into force, the policies it contains take precedence over existing non-strategic policies in a local plan covering the neighbourhood area, where there is conflict; unless they are superseded by strategic or non-strategic policies that are adopted subsequently.
 16. The Council make representations that there is no reference in the strategic Policies SS1 and SP8 of the Local Plan to altering the settlement boundaries, including for Lenham. The Council make the case that the Policies in the Lenham NP do not take precedence over the strategic and existing policies in the Local Plan and that changes to the settlement boundary in the Lenham NP are not in conformity with the Local Plan. Furthermore, the Council argue that the boundary change in the vicinity of the appeal site was not required by nor in compliance with the Local Plan.

17. However, there are quite substantial changes to the settlement boundary in the Lenham NP compared with the Local Plan, and Policy CP1 of this NP explains that these are being made as part of the NP. The boundary changes are not restricted to the inclusion of the Strategic Housing Delivery Sites.
18. The Framework explains that neighbourhood plans should not promote less development than that set out in the strategic policies for the area, or undermine those strategic policies. Furthermore, there is a requirement that neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers the area. The Lenham NP has pursued the requirements of the Local Plan, identified the required housing sites and does not appear to have undermined the strategic policies by including them within the settlement together with the other changes.
19. Indeed, paragraph 2.1.4 of the Lenham NP explicitly states the village has a defined settlement boundary which is being re-defined under this Neighbourhood Plan. While I have carefully considered the case made by the Council, the settlement boundary in the Lenham NP is shown in the more up-to-date plan and has not been superseded because the Pre-submission Local Plan (the Emerging Local Plan) is still being progressed³.
20. As the Lenham NP has completed all its statutory processes, of which the Council would have been part of, and has been made, it should be assumed to be in general conformity with the Local Plan. I therefore give greater weight to the settlement boundary in the Lenham NP than in the Local Plan. As a consequence, based on this analysis, the appeal site should be considered to fall within the settlement area of Lenham and not within the countryside. The schemes for employment development would, therefore, as a matter of principle, comply with Policy SS1 of the Local Plan which seeks to direct development to Rural Service Centres, such as Lenham. There would be no conflict with Policy SP17 of the Local Plan or Policy CP1 of the Lenham NP as these apply criteria that are applicable to development in the countryside.
21. The appellant has highlighted Policy EMP3 of the Lenham NP which seeks to provide for a mix of employment opportunities. In general, the principle of employment development on the site would be in accordance with this policy which supports proposals for local employment opportunities, including small and medium sized businesses, particularly where they reduce out-commuting.
22. Policy DM30 of the Local Plan has been referenced in the reason for refusal for both appeals. This policy concerns the design principles for development in the countryside. As the site is considered to fall within the settlement (and these are outline schemes), this policy is not applicable to the issues in these appeals. Additionally, Policy DM5 of the Local Plan has also been referenced for both appeals. This policy concerns development on brownfield land. As the site is an undeveloped green field, this policy is also not applicable to the considerations in these appeals.
23. Commentary is provided in the appeal submissions regarding draft Policy LPRSA260 of the Emerging Local Plan which seeks to allocate for the development of approximately 2,600m² of employment floorspace (E(g), B2

³ This Emerging Local Plan shows the appeal site within the settlement and part of the adjoining South East Water Deport site but excludes the Northdown Business Park.

and B8 uses). This allocation covers two sites in this area, the appeal site and a smaller site nearby which is accessed off the Old Ashford Road.

24. The Council has explained that representations have been received, and Main Modifications are being considered at the Examination by the Local Plan Inspector with Stage 2 having recently been completed. It is understood that the Council intends to run a six week public consultation on the proposed modifications, commencing late September 2023, and adoption of the Local Plan is scheduled for January 2024. Objections to the policy have been submitted from the AONB Unit and Natural England and, while the Inspector has commented in general after the Stage 1, I am not aware of any specific response on draft Policy LPRSA260, although I have taken into account the main modifications set out by the appellant in the final comments. The Plan is still progressing through its various stages and, at this point, I consider that only moderate weight can be afforded to this policy in terms of the issues in this appeal.
25. Nevertheless, in the light of the above analysis and the evidence that I have before me, I conclude that the development plan, as a matter of principle, would support the proposed employment use in this location.

Character and appearance

26. The site is a rectangular shaped, undeveloped field. On one side is the Tanyard Farm housing allocation and on the other the South East Water Depot. To the north is the A20 (Ashford Road) and to the south there are two dwellings. The site gently slopes down to the south and there is some low level and very limited landscaping along the side to the proposed housing. On the allocated housing site, some new housing has been built on the western section of the land, but nothing so far on the field closest to the appeal site. It is understood that outline permission has been granted but that the reserved matters has been held up because of the need to demonstrate nitrogen neutrality for the housing in relation to potential impacts on European designated habitat river catchments in the area.
27. The frontage with the A20 is characterised by a grass verge and behind which is some established overgrown hedges, and which include some small/medium sized trees. It appears that this frontage growth will need some management and because of the deciduous nature of most of the vegetation the appeal site will be visible from this section of the road at some times of the year. Especially at those times, the open character and verdant appearance of the site would be apparent, and the site contributes positively to the character and appearance of this section of the road.
28. When within the site, the two dwellings to the south are largely obscured by the established boundary planting. However, on the eastern boundary, because of a sizeable gap in the tree screen, the large depot building is very apparent. Its bulky, tall and functional appearance, sited reasonably close to the boundary, has a dominating appearance from within the appeal site.
29. On the other side of the A20 is the Kent Downs AONB. This open land rises up the slope and has an expansive and open character. The higher land within the AONB includes the North Downs Way, a long distance footpath, and the Grade II Listed Chalk Cross, cut into the hillside. From these locations there are extensive views south over the gently undulating landscape.

30. The buildings within the Northdown Business Park and the South East Water Depot are apparent within the landscape from these elevated areas. They are softened by the presence of some mature trees and the presence of some hedging and lower level vegetation, but they still form a ribbon of built development in the landscape. The presence of the larger Water Depot building is especially apparent because of its pale roof colour, bulky appearance and overall size.
31. The new housing which has been built is also visible and, as the new dwellings extend to the east, the combined impact of the housing allocation will become more apparent and become a feature of the landscape.
32. The appeal site is discernible as an undeveloped space from this higher ground. It makes a modest but worthwhile contribution to the wider landscape and provides a green space adjoining the business development. There are three mature trees on the northern side of the A20 which, in conjunction with the front boundary planting, help to filter views of the site. However, especially in the autumn and winter months, when the leaves have fallen, the site would be more apparent, and the openness of the site would make a greater contribution to the character of the area.
33. The area on the southern side of the A20 is experienced in conjunction with the land to the north and forms part of the setting to this part of the AONB. I am conscious of the Framework requirement that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs which have the highest status of protection in relation to these issues. The Framework also requires that development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on AONBs.
34. Both schemes are proposed in outline with only access for determination at this stage. Nevertheless, both proposals specify an up to floorspace and it is necessary for me to be satisfied that this floorspace could be accommodated on the site without undue harm to the character and appearance of the area.
35. With Appeal A, three indicative layout options have been submitted. Other layout options would also be possible, but the three layouts are instructive of ways that the proposed floorspace could be accommodated on the site. All three options show quite intensive forms of development with much of the site covered with buildings, yards and/or hard surfacing. There would be limited spaces and opportunities for landscaping, in particular, at the site frontage and along the boundary with the new housing site.
36. Two of the indicative plans show extensive lengths of buildings reasonably close to the boundary with the housing and, with the indicative spaces for landscaping, could with buildings up to 10m in height, produce an overly dominant and harmful built form adjoining the intended residential development to the west. The yard area indicative scheme would also be an intensive use of the site and would, in all likelihood, create storage, parking and manoeuvring space over much of the site area. It would have a visually harmful and unsympathetic effect on the character and appearance of the area.
37. In particular, all of the schemes show indicative development quite close to the frontage of the site. With two of the schemes a building, potentially up to 10m in height, could be positioned towards this area. This would have the effect of urbanising this frontage to an undue and harmful extent.

38. The effects of the proposal under Appeal A would be, in part, experienced from the road frontage, from some of the new housing in time and from the higher land within the AONB. I appreciate that the layouts are only examples. Nevertheless, they demonstrate that the floorspace and maximum height, and in the case of the yard scheme its extent and effect, would be likely, despite details that could be submitted at the reserved matters stage, to constitute an over development of the site that would unduly harm the character and appearance of the area, including the setting to the AONB.
39. In terms of the proposal under Appeal B, the maximum floorspace has been reduced to a level that would be within the figures specified for the site in the Emerging Local Plan. It is a less intensive scheme, with lower heights of buildings, than that proposed under Appeal A. The indicative layout shows green roofs and areas for landscaping, including along the western boundary with the housing. The development would be of a similar height to those buildings on the Northdown Business Park and lower than the larger building on the adjoining South East Water Depot.
40. Nevertheless, the proposal has still resulted in objections to the scheme from the AONB Unit and the Parish Council, while noting that the Council's Landscape Officer considers there is no reason to refuse the application on landscape grounds. The indicative layout is but one way that the site could be developed. However, the width of the site means that, it is likely in practice and as shown on the indicative plan, that to accommodate this quantum of floorspace it would be probable there would be a reasonably long run of hard standing from almost the front to the back, and the indications from the indicative plan are, in my judgement, that this would make the site difficult to landscape successfully.
41. There are some areas within the site shown for structural planting and the other areas for planting are indicatively shown around the boundary. The space to the boundary with the housing is shown at about 6.5m. However, I do not have sufficient details at this outline stage to satisfy me that structural planting of a sufficient height and type could be accommodated in such a space to ensure that it would have a meaningful impact to help to mitigate the development within the landscape and that there would be space for it to be able to mature in the longer term.
42. If the buildings were shifted or sub-divided to provide more space along this boundary, then this would, in all likelihood, adversely affect the ability to accommodate elsewhere the buildings on the site with the up to floorspace and/or the capability to provide suitable parking and manoeuvring space.
43. The height and position of a building at the frontage, which could potentially be to the height indicated on the parameters plan, is likely to be overly prominent, and notwithstanding the housing that will be built to the west and which would adjoin the road, a business building in this broad location would not allow sufficient landscaping to mitigate the appearance of the development when viewed from the adjoining road area. I appreciate that such an indicative siting for a building could be positioned back into the site at the reserved matters stage but that would then affect the potential for other landscaping within the site.
44. I understand that this is an outline proposal and that details could be submitted at reserved matters stage to try to seek to address these concerns. The site is

also within the settlement area as shown within the Lenham NP and the Emerging Local Plan identifies the site for employment development. However, this is a reasonably sensitive site positioned next to the proposed housing and with the AONB on the other side of the road, and with views down from the higher land across this and other sites. I am not satisfied, by the indicative plan and the other information at this stage under Appeal B, that a scheme for this extent of floorspace and height of buildings could be accommodated on the site successfully at the reserved matters stage so as to not cause undue harm to the character and appearance of the area, when viewed from the AONB, the road frontage and/or the adjoining housing to be built. I have concerns that the scheme under Appeal B would likely cause harm to the setting to the AONB and despite the submissions of the Council to the Local Plan Inspector, I am required to assess this appeal on the information before me.

45. For these reasons, the scheme under Appeal B (and Appeal A) would not wholly accord with the draft Policy LPRSA260 of the Emerging Local Plan. This is because, having regard to the policy as originally drafted and also the wording suggested by the main modifications, the evidence does not satisfy me at this stage and having regard to details that could be submitted at the reserved matters stage, that the development under either proposal would be able to incorporate substantial areas of internal landscaping within the site to provide an appropriate framework for the site to protect the setting of the Kent Downs AONB.
46. For these reasons, the proposal under Appeal B (and Appeal A) would not comply with Principle SD8 of the AONB Management Plan 2021-2026 because the scheme would, in all likelihood and, despite any details at the reserved matters stage, negatively impact on the landscape character, and the setting and views to and from the Kent Downs AONB.
47. In the light of the above analysis, I conclude that both schemes, notwithstanding any details that could be submitted at the reserved matters stages, would be likely to cause undue harm to the character and appearance of the area, including the setting of the adjoining part of the AONB. As a consequence, the schemes would not meet with the requirements of Policy DM1 of the Local Plan, Policy D1 of the Lenham NP and the Framework which, amongst other things, require that the location, design and site layout of new development should have regard to the role Lenham places within the setting of the Kent Downs AONB.

Biodiversity (Appeal A)

48. The application under Appeal A was accompanied by a Preliminary Ecological Report (July 2021) and this included recommendations for ecological enhancements. While the layout plans are only indicative, they all show reasonably narrow strips of landscaping around the boundaries of the site. There will be other layouts that are possible but given the up to floorspace that is indicated, and the likely space required for parking, loading and manoeuvring, I consider that any layout would likely limit the landscaping to similar and restricted areas.
49. The Preliminary Ecological Report indicates that generous native planting of trees and shrubs should be undertaken throughout the site, and suitable planting would include beech, oak, hazel, holly, hawthorn, field maple and crab apple. While some of these species could be maintained at shrub/bush size,

others such as oak and beech could ultimately be sizeable trees with a proportionate crown spread. Indeed, this size of tree would be needed to create an effective landscaping scheme. With the space available I do not consider that this is a realistic proposition to be able to plant such trees and allow them to mature and, therefore, the intended biodiversity gains would not be able to be achieved. The landscaping areas would be, in all likelihood, limited, and therefore with this proposed up to floorspace I do not have confidence from the submitted details that suitable landscape and ecological buffers could be provided at the reserved matters stage. It follows that the Framework requirement that decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity, would be unlikely to be met.

50. I do not consider that the other aspects of biodiversity enhancement which have been explained in the Preliminary Ecological Report, such as bird and bat boxes and the provision of climbing plants, would provide sufficient benefits as part of a scheme at the reserved matters stage, to offset the concerns that I have with this issue.
51. Accordingly, I conclude that the scheme under Appeal A would, because of the up to floorspace proposed, and in all likelihood the resulting limited areas for landscaping, and notwithstanding the details that may be submitted at the reserved matters stage, not provide adequate opportunity for biodiversity and related net gain. The scheme would therefore not accord, in these respects, with Policy DM3 of the Local Plan, Policy D1 of the Lenham NP and the Framework.

Planning Balance and Conclusion

52. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise⁴.
53. In this case, I have concluded that the site would be located within the settlement area of Lenham as detailed within the Lenham NP. Even if I was to take the Council's view on this matter and judge the site was outside the settlement boundary for the purposes of these appeals, the site would still be well located for employment use as it would be closely associated with Lenham, a Rural Service Centre. The site is located next to a main road, and within walking and cycling distance of services and facilities within Lenham. There is access to the public bus network within walking distance and Lenham has a main line railway station. The site is a good location for employment development both in terms of commercial vehicles visiting the site and for employees having the opportunity to access the site by a range of transport modes.
54. The schemes would make good and effective use of an underutilised space and would improve the vehicular access to the adjoining Depot as well as providing an acceptable access to the site itself.
55. Both schemes would provide a meaningful and worthwhile delivery of employment floorspace, helping to meet an identified need, in new purpose designed buildings that should complement the offer with other employment

⁴ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

- buildings in the area. Although of moderate weight, the principle of the provision of employment space on the site would accord with the general approach of the Emerging Local Plan Policy LPRSA260, although I have set out the concerns with the compliance with the detailed criteria above, and the use would be policy compliant in terms of the Lenham NP.
56. The Framework requires that significant weight should be placed on the need to support economic growth and productivity, taking account both local business needs and wider opportunities for development. Taking all these matters into account, I consider that the benefits of each appeal scheme should merit significant weight in favour of approval.
57. On the other hand, the Framework also states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. In the case of each appeal, notwithstanding details that could be submitted at the reserved matters stage, both proposals would likely cause undue harm to the character and appearance of the area and, in particular, would detract from the setting of the AONB and, in this local area, would diminish its special qualities. I consider that this harm and related policy conflict, albeit less in the case of Appeal B, should, nevertheless, afford great weight against the proposal in each case. In the case of Appeal A, there is the additional harm resulting from the biodiversity issue which I have identified.
58. The first reason for refusal in the case of both appeals predominantly highlights the likely harm to the character and appearance of the area, and I consider that this is the determinative issue in both appeals, rather than the matters with regard to the settlement boundary. I consider that the identified harm and policy conflict is such that both schemes would conflict with the development plan when considered as a whole.
59. It follows that I judge that the harm and policy conflict in the case of each appeal, which should be attributed great weight, would not be outweighed by the benefits of the respective schemes, which should be afforded significant weight.
60. For the reasons given above, there are no material considerations of such weight that indicate the proposals should be determined otherwise than in accordance with the development plan. I therefore conclude that both appeals should be dismissed.

David Wyborn

INSPECTOR

Appendix E – Ashford Road Harrietsham Appeal



Appeal Decision

Inquiry held on 13-16 December 2022 and 16 January 2023

Site visits made on 12 December 2022 (unaccompanied) and 2 February 2023 (accompanied)

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th March 2023

Appeal Ref: APP/U2235/W/22/3305441

Land at Firwood Lodge and Jays View, Ashford Road, Harrietsham ME17 1BL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr John Smith of Gleeson Land against the decision of Maidstone Borough Council.
 - The application Ref 22/501002/OUT, dated 7 March 2022, was refused by notice dated 8 June 2022.
 - The development proposed is outline planning application (with all matters reserved except for access) for the demolition of existing residential properties and other buildings and erection of up to 109 residential dwellings including affordable housing with the provision of vehicular, cycle and pedestrian access onto Ashford Road (A20) alongside public open spaces, sustainable urban drainage systems, landscaping, infrastructure and earthworks.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The original application was made in outline with only access to be determined at this stage. All other matters were reserved for future determination. I have had regard to the existing and proposed site plans and the indicative layout of the proposed development as shown in these drawings, but have regarded all elements of these drawings as indicative apart from the details of the access.
3. As part of its appeal submissions, the appellant submitted an alternative scheme, reducing the maximum quantum of development from up to 109 dwellings to up to 86 dwellings and restricting development of a field in the south-east of the site. This amendment to the scheme sought to address the landscape and visual impact of the proposal.
4. The *Procedural Guide – Planning Appeals – England* makes clear that if an applicant thinks that amending their application proposals will overcome the local authority's reasons for refusal they should normally make a fresh planning application. Furthermore, the appeal process should not be used to evolve a scheme and it is important that what is considered is essentially the same as that on which the local planning authority took their decision and on which the views of interested people were sought.

5. I have had regard to the 'Wheatcroft' principles including whether amendments would materially alter the nature of the application and whether anyone who should have been consulted on the changed development would be deprived of that opportunity. I have come to the conclusion that they would. This is because the technical assessments supporting the application and upon which the benefits of the scheme have been derived, are based on a scheme delivering up to 109 dwellings across the entire site. I have therefore proceeded to base my decision on the proposals before the Council when it made its decision.
6. Planning permission was refused for five reasons. The Council's fifth reason for refusal was on highway safety grounds. Since then, additional information was submitted and Kent County Council (KCC), as the local highway authority, has confirmed that its highway concerns have been addressed. The Council has confirmed that it no longer contests the scheme on this ground.
7. Reason for refusal 4 referred to harm arising from the potential visual impacts of acoustic screening. Clarification was provided by the appellant and the Council has now agreed that, subject to the principles of additional acoustic work, as set out in the appellant's statement of case being implemented, this element of reason for refusal 4 is no longer relevant.
8. During the course of the appeal, a planning obligation under section 106 of the Town and Country Planning Act 1990 (as amended), dated 24 January 2023, was submitted. This dealt with the provision of affordable housing, first homes and financial contributions to public open space.
9. The Council is in the process of reviewing the Maidstone Borough Local Plan 2017 (the LP). Before the Inquiry closed, the Examining Inspector for the Maidstone Local Plan Review (the LPR) published his initial assessment and interim conclusions¹. As these findings would be directly relevant to the appeal, I allowed written submissions from both parties. I closed the Inquiry in writing on 20 February 2023.
10. I have taken into account that the emerging policies within the LPR are subject to change. Having said that, the Examining Inspector, in his Stage 1 findings, confirmed that the Council's use of the housing need figure of 1,157 dwellings per annum (dpa) was soundly based. He has also found that, whilst individual components of the strategy are subject to soundness issues, the spatial strategy itself is sound as comprising an appropriate strategy. In light of caselaw and the provisions of paragraph 219 of the National Planning Policy Framework (the Framework) I am able to give these more weight. I return to these matters in my reasoning below.

Main Issues

11. The main issues are:
 - whether the appeal site is a suitable location for the proposed development, having regard to the spatial strategy;
 - the effect of the proposed development on the character and appearance of the surrounding area; and

¹ INQ14 Maidstone Local Plan Review letter, dated 11 January 2023

- whether there are any other material considerations, including the housing land supply situation and benefits of the proposal, which would indicate that the proposal should be determined otherwise than in accordance with the terms of the development plan.

Reasons

Suitable location

12. Policy SS1 of the LP deals with the spatial strategy for the borough. It sets out the spatial distribution of development within the borough, identifying the 'rural service centres', which includes the village of Harrietsham, as the secondary focus for housing development with the emphasis on maintaining and enhancing their role and the provision of services to meet the needs of the local community. Outside defined settlements, the policy gives protection to the rural character of the borough avoiding coalescence between settlements. The supporting text of the policy recognises that it is important that rural service centres are allowed to continue to serve their local area by retaining vital services thereby reducing the need to travel.
13. The appeal site is an area of land on the southern side of Ashford Road. It comprises the properties and curtilages of two residential dwellings, Firwood Lodge and Jays View, and various buildings and land used for agriculture and equestrian purposes. The site lies some 130m beyond the defined western settlement boundary edge of Harrietsham. As it lies outside the defined settlement boundary, it is located within the countryside for planning policy purposes.
14. Policy SP17 of the LP deals with development within the countryside. It states that development proposals within the countryside will not be permitted unless they accord with other policies in the plan and they will not result in harm to the character and appearance of the area. It also states that proposals should not have a significant adverse impact on the setting of the Kent Downs Area of Outstanding Natural Beauty (the AONB) and that development in the countryside will retain the separation of individual settlements. I return to matters in relation to character and appearance and the AONB in my assessment of the next main issue, below.
15. Chapter 8 of the LP sets out a number of development management policies in the countryside. This covers a range of uses and types of development, but notably does not include general housing as this is not a use identified as appropriate within the countryside. This is not disputed by the appellant who acknowledged it is not a 'countryside' use that relevant policies would support. The proposal therefore conflicts with the spatial strategy.
16. Policy SP5 of the LP explains that new housing and employment development within the settlements will be focused on allocated sites or broad locations in the local plan, or when it is a minor development such as infilling or the redevelopment of previously developed land that is of a scale appropriate to the size of the village. As this policy relates to development within the settlement boundary it is not applicable to the appeal proposal. Nevertheless, as I shall come onto later in my decision, it relates to the settlement boundary and is considered one of the most important policies in determining the application.

17. As part of the appellant's closing submissions, I have been referred to a recent Court of Appeal judgment *The King (oao Thurston Parish Council) v Mid Suffolk District Council*² where it was found that the word 'focused' in the interpretation of a policy relating to settlement boundaries in Thurston village did not mean that there can never be any development of a general kind outside a settlement boundary.
18. I recognise there are differences between the circumstances of this judgment and the appeal scheme, notably that they relate to different local areas, a different policy and context as well as relating to a neighbourhood plan rather than a strategic policy. Nevertheless, I find that there are some similarities to the circumstances here in terms of seeking to focus development within settlement boundaries and therefore the application of policy.
19. I appreciate that there will be circumstances where development outside of the settlement boundary may be appropriate but it seems to me that both Policies SP17 and DM5, which I come onto next, allow for this in any event. However, I also accept that the settlement boundary is drawn up to define the area most suitable for growth and development in order to provide a balanced approach to protection of the environment. This has been established through the local plan process. This balanced approach to development should not be undermined unless there are good reasons to do so.
20. Policy DM5 of the Local Plan deals with development on brownfield land. The first part of the policy relates to development in defined settlements, including rural service centres, and would not therefore apply to the appeal site.
21. Part two of the policy sets out that exceptionally, the residential redevelopment of brownfield sites in the countryside which are not residential gardens will be permitted subject to the site not being of high environmental value and the density of new housing reflecting the character and appearance of the locality. It also requires that the redevelopment results in a significant environmental improvement and the site is, or can reasonably be made, accessible by sustainable modes to Maidstone urban area, a rural service centre or larger village.
22. The supporting text of the policy recognises that a number of brownfield sites are located in the countryside and outside of settlement boundaries where countryside restraint policies apply. It explains that the key considerations for exceptionally allowing residential development are harm to the character and appearance of an area, the impact of proposals on the landscape and environment; and what sustainable travel modes are available or could reasonably be provided. Specifically, paragraph 6.38 of the explanatory text to the policy states that 'residential gardens in urban and rural areas are excluded from the definition of a brownfield site'.
23. The site has not been identified as being of high environmental value. Whilst the density of new housing would ultimately be established through the submission of reserved matters, the indicative layout provides an indication of the density of development across the site. I come onto matters in respect of character and appearance in my next main issue, where I have concluded that harm would arise.

² INQ13 and *The King (oao Thurston parish Council) v Mid Suffolk District Council* [2022] EWCA Civ 1417

24. The appellant has argued that the exclusion of residential gardens in rural areas from this definition does not accord with the glossary definition set out within the Framework which explicitly states that previously-developed land, or brownfield land, excludes land in built-up areas such as residential gardens. Thus, the appellant suggests the policy is inconsistent with the Framework.
25. The Framework definition remains silent on gardens within rural areas. Notwithstanding these differences, the approach in Policy DM5 in respect of residential gardens was found to be sound by the local plan Examining Inspector³ in 2017 based on local circumstances. Although that pre-dated the 2021 Framework, the Framework in force at the time from 2012 included the same definition. I also find this to be a reasonable approach as the policy is not redefining brownfield land but the supporting text is qualifying what might be considered to be a brownfield site. In this regard, I do not find it to be inconsistent with the Framework.
26. The extent to which the appeal site comprises brownfield land is around 10% of the total area, when gardens are excluded. Even if gardens within rural areas should be considered to be a brownfield site, then it is agreed that the area of land would amount to around 30% of the appeal site. In either scenario, a significant portion of the site would be greenfield.
27. In terms of meeting the requirements of Policy DM5, the appellant has suggested that the proposal would deliver environmental improvements, leading to a biodiversity net gain of 27% in habitats and 46% in hedgerow habitats. Whilst this may be a factor in favour of the proposal, environmental improvement is a much broader matter than ecological improvements. In this regard, it is noted that both parties are in agreement that there would be landscape harm, although the extent of that harm remains in dispute. I am therefore unable to conclude that there overall would be a significant environmental improvement of the site.
28. The final part to Policy DM5 relates to what sustainable transport modes are available or could be reasonably be provided. This consideration also forms part of the appellant's argument that due to the proximity of the site to the settlement boundary the appeal site would be a sustainable location, which is promoted irrespective of any brownfield land claims. However, sustainability has three dimensions, social, economic and environmental. I shall come on to consider these in more detail later in my decision. Nonetheless, in the context of the suitability of the location, I turn to whether or not the appeal site is an accessible location thereby reducing the need to travel, or whether it could be reasonably made so by the provision of sustainable transport modes.
29. Harrietsham provides a number of key services and facilities, including a few shops and a primary school. There is also a medical centre but I was told by interested parties that this had been closed with no indication as to when or if it would be reopened. There is also a railway station providing services to Canterbury and London. A bus service runs along the A20, with bus stops around 400m east and west of the closest points of the appeal site. The village of Lenham, also a rural service centre, is located some 900m to the east of the closest point of the appeal site.

³ CD 8.1 at [340] on PDF 67

30. It has been agreed between the highway authority, KCC, and the appellant that the appeal site is within reasonable walking distance of services and facilities within Harrietsham and that the route would not raise highway safety concerns. These distances are set out within the Agreed Statement on Transport Matters⁴.
31. There is conflicting evidence in respect of what would amount to a 'walkable distance'. The Agreed Statement sets out that a distance of up to 1.6km is a reasonable walking distance. Research by WYG into 'How far do people walk?'⁵ using National Travel Survey data identified that people will walk 800m to a bus stop, about double that to a railway station and nearly 2km for other services. This was based on the 85th percentile of people not an average. Alternative guidance, notably Manual for Streets (MfS), identifies that a 'walkable neighbourhood' is characterised by having a range of facilities within 800m which residents may access comfortably by foot. This is not however an upper limit.
32. Only one service and facility is within 800m of the appeal site and therefore a 'comfortable walking distance' based on MfS, that being a wood fired pizza shop at 800m. A BP garage and convenience store lies beyond this at 850m. Moreover, given that these distances are measured from the site entrance, the actual distance between the proposed houses and these facilities is likely to be longer, noticeably so for those at the southern end of the site. I nevertheless accept that, based on the evidence submitted, services and facilities are within a walkable distance.
33. Physical distance is not the only means to encourage people out of their car, the quality of the route is an important factor. I both observed and I heard from interested parties that the A20 is a busy road, with evidence of regular use by HGVs, particularly if there are any disruptions to the nearby M20 motorway. In these circumstances, walking would be unlikely to be an attractive option for many, particularly those with young children or the elderly. For this reason, whilst I accept that some people may walk or cycle to services, I am not persuaded that this would apply to the majority of occupants.
34. A package of measures is proposed to promote sustainable travel including separate pedestrian and cycle site access, an extension to the shared footway/cycleway on the southern side of the A20 as well as two pedestrian refuge island crossings on the A20, either side of the access. Coupled with this are measures to reduce the need to travel, including the promotion of home delivery services and broadband as well as facilities to support travel by means other than the private car including cycle parking and a Residential Travel information pack.
35. I accept that the provision of a 3m wide footpath and dedicated cycle lane may encourage some additional walking and cycling. I also recognise that some of the proposed interventions may result in a few less trips by car. However, overall, for the reasons I have already stated, the provision of all these additional measures does not lead me to a different conclusion on the accessibility of the site.

⁴ CD1/6

⁵ CD8/9

36. Given my findings, it follows that I find conflict with the requirement under Policy DM5 that the site is or can reasonably be made accessible by sustainable modes to Maidstone urban area, a rural service centre or larger village. Thus, the requirements of Policy DM5 are not met. Furthermore, the accessibility of the site does not justify the location of the proposed development outside the settlement boundary.
37. The settlement boundary for Harrietsham was extended further east towards the appeal site through the LP to include an allocated housing site. This has now been developed with 49 dwellings at Bluebell Walk. A further two sites have been developed, South of Ashford Road for 113 homes and Church Road (80 homes).
38. The LPR proposes the allocation of two sites for residential development, land⁶ to the west and land⁷ to the north-east of the appeal site. The LPR proposes to extend the settlement boundary further east to incorporate these two sites. If these proposed allocations were to be adopted through the LPR, the appeal site would be contiguous with the new settlement boundary. Whilst this does appear to represent an eastward extension of the settlement boundary, I am mindful that those sites represent the extent to which the settlement boundary is considered by the Council to be suitable to extend along the A20. Thus, whilst I accept that the appeal site adjoins this, it has neither been, nor is it proposed to be, allocated for such development.
39. Policy SP6 which specifically relates to Harrietsham sets out that key services will be retained and supported and explains that in addition to minor development and redevelopment of appropriate sites in accordance with Policy SP5, approximately 242 new dwellings will be delivered on three allocated sites. These have been delivered. A further 140 new dwellings are proposed through the draft allocations in the LPR. The appeal proposal, in seeking to deliver up to 109 dwellings, would almost double that amount. For an unallocated site, outside of the settlement boundary, this would be a disproportionate amount of development to this settlement which would not align with either the existing or emerging spatial strategy.
40. There is good evidence that the current spatial strategy set out within the LP is working with housing delivery, in the 5 years since the adoption of the plan, having exceeded the local plan requirement. I discuss this in more detail later in my decision.
41. The LPR is evolving that strategy through the introduction of additional tiers within the settlement hierarchy above Harrietsham, namely the Garden Villages and Strategic Development locations. Whilst I recognise that these two components amongst other matters will be subject to further examination through the plan-making process, the spatial strategy for securing a sustainable pattern of development has been found sound by the Examining Inspector. This includes the relegated position of the rural service centres within the new settlement hierarchy. This adds to my view that the proposed development is at odds with both the Council's existing and emerging strategy for growth.

⁶ Maidstone Local Plan Review Site LPRSA101

⁷ Maidstone Local Plan Review Site LPRSA071

42. I therefore find that the appeal site is not a suitable location for the proposed development, having regard to the spatial strategy. It therefore conflicts with Policies SS1, SP17 and DM5 of the Local Plan as referred to above.

Character and appearance

43. The appeal site comprises two detached dwellings, their gardens and areas of fields and paddocks. The site is undulating, with higher ground to the south where there are fields and paddocks. The two dwellings occupy a plateau area towards the middle of the site and the ground then slopes down towards the A20 in the north, with areas of paddocks occupying much of the land between the houses and the road. The southern boundary of the site abuts the wooded boundary with the railway line, whilst the western, northern and part of the eastern boundaries are vegetated to varying degrees, with hedgerows and trees. The south-eastern boundary at the top of the site is significantly open, separated from the adjacent field by a modest fence.
44. The A20 is an urbanising feature within the area, relatively wide, with traffic islands, substantial areas of hatching and busy with traffic. It links the two settlements of Harrietsham and Lenham. A small number of properties or their entrances including the appeal properties, can be seen travelling between the two settlements but built development is not a prominent feature from the road. Notwithstanding the appearance of the road and some limited evidence of domestic fences and hedging, it is extensively lined with vegetation and mature trees, beyond which fields and open land can be glimpsed including the paddocks that form part of the appeal site. This gives this area between the two settlements a semi-rural character.
45. Away from the road, the character becomes considerably more rural, with fields and paddocks and an increased sense of tranquillity. This is certainly the case towards the southern parts of the site. On the opposite side of the A20, the land rises up to the north providing views, predominantly from the higher part of the appeal site towards the rural landscape of the AONB. Given these views and the proximity of the site to the AONB, it therefore lies within its setting.
46. The Council did not refuse permission on the basis of any harm to the setting of the AONB although this was extensively discussed at the Inquiry. Given these discussions and the proximity of the site to the AONB I have considered the impacts.
47. The site also lies within the Harrietsham to Lenham Vale Landscape Character Area (the LCA) as defined in the Maidstone Landscape Character Assessment⁸ (the MLCA). This identifies key characteristics of the LCA. The extent to which the site shares these characteristics was a matter of some discussion at the Inquiry. Specifically, the appellant disagrees that the site comprises a mosaic of mixed farmland divided by non-rectilinear hedgerow boundaries; that it does not lie to the north of Harrietsham where there are small field patterns and equestrian grazing; and that trees on the appeal site comprise an area of woodland as recognised in the MLCA. The parties also disputed the magnitude of the impact on the LCA and where it would be experienced from.

⁸ CD9/6

48. The appeal site is located towards the centre of the LCA. The western boundary of the site is separated from the adjacent field by an irregular, non-rectilinear hedgerow boundary and the fields within the site are a mix of shapes and small in size. This is recognisable as the characteristic mosaic fields. Whilst I accept that within the area to south of the railway line, also within the LCA, non-rectilinear hedgerow boundary features are more common, it does not reduce the contribution that the appeal site makes to this particular landscape characteristic.
49. The appeal site contains a number of trees which contribute to its verdant character. Within the grounds of Firwood, there is a block of more dense tree cover which was recorded in the appellant's Ecological Appraisal⁹ as 'priority habitat deciduous woodland', comprising mature Beech, Scot's Pine, Hawthorn and Yew. It does not therefore comprise of broadleaf nor sweet chestnut coppice woodland, described within the MLCA. Nevertheless, it is an area of mixed woodland, and the MLCA recognises the contribution of mixed woodland to the area, notably referring to the contribution of an area of mixed woodland at Kiln Wood. I find that this area of woodland, albeit small in scale, would be mixed native woodland and it makes a positive contribution to that overall character of the LCA.
50. The MLCA refers to the small field pattern and equestrian grazing north of Harrietsham. Due to its location to the east of the settlement, geographically the site cannot meet this part of the definition. Notwithstanding this, the small field pattern of the appeal site including areas of paddock, to my mind, contributes to local character, irrespective of whether or not it technically meets the geographic location defined in the LCA.
51. From my observations, the housing is scattered and unobtrusive in the landscape and the railway line, whilst bisecting the area, is not visually prominent being largely hidden behind vegetation on its boundaries. The landscape is therefore reasonably intact. Similarly, I find that the site itself displays characteristics of the LCA that are also reasonably intact. Additionally, there are a number of individual trees and an avenue of trees to the existing driveways which appear to be in good condition. Overall, the condition of the site appears to be reasonable in terms of its landscape contribution.
52. Generally, I find that the appeal site contributes to the features of the LCA defined within the MLCA, notably the mosaic like field pattern and blocks of woodland. These are distinctive features between Harrietsham and Lenham. Whilst I recognise that they are not widely visible from public viewpoints, they contribute positively to the landscape character of the area.
53. The proposal, in developing the site with up to 109 dwellings would inevitably change the character of the site. It would result in the loss of the existing field pattern. Whilst the existing non-rectilinear western hedgerow boundary would be retained, with the draft allocation of the adjacent field to the west for housing development, this would no longer provide a boundary between fields but would simply divide two residential developments. The loss of the mosaic field pattern would be contrary to the actions identified within the MLCA which seeks the conservation of the mosaic field pattern and hedgerow boundaries.

⁹ CD2/13

54. The area of woodland on the site would be retained but instead of forming part of a semi-rural landscape, it would lie within a suburban context being surrounded by residential development. Its contribution to the LCA would be significantly reduced.
55. Along the south-eastern boundary of the site, away from the road, the proposed development would starkly extend into the rural landscape. As I shall come onto, this would not be widely visible from public viewpoints. However, it would fundamentally alter the tranquil and rural character of this part of the site and its surroundings, to the detriment of the quality of the area.
56. The change in the semi-rural character of the site would be apparent from the A20. It would be visible through the new, wider site entrance where the presence of a significant amount of urbanising development including the new road and dwellings would be apparent. It would also be visible in filtered views through the boundary vegetation, more so in winter months when trees are not in leaf. Additionally, I observed that the carriageway is higher than the lowest part of the site and that boundary vegetation grows within a ditch, thereby reducing its overall effectiveness in screening the development from the road. The change in character would therefore be evident.
57. I recognise that the required visibility splays should be achievable across the existing verge outside the appeal site with a limited reduction in boundary vegetation. However, the standard of access to serve this size of development would be visually more prominent than the two existing and unobtrusive entrances that currently serve both properties.
58. Although the site frontage is limited to a relatively short section of the road, with the introduction of the footpath, streetlighting, additional traffic management measures including a potential reduction in speed limit, increased vehicle and pedestrian movements, the semi-rural character of this stretch of road between Harrietsham and Lenham would be significantly compromised. This would be a permanent change, not just confined to the early years of the development.
59. The proposal would not help to maintain the gap between the two settlements. This would be significantly and permanently reduced, both through this proposal and in combination with developments coming forward on allocated sites, including those proposed through the LPR as well as a large site allocated in the Lenham Neighbourhood Plan (LNP)¹⁰ on the edge of Lenham. The Council has estimated that the existing gap between the settlements would close by approximately 25%, this has not been disputed.
60. This would be contrary to policy and the advice set out in both the MLCA and the Maidstone Landscape Capacity Study¹¹ (the LCS). It would also be contrary to the advice that further development along the A20 should be resisted and would fail to conserve the mosaic field pattern between Lenham and Harrietsham.
61. The Council's landscape witness highlighted a number of shortcomings with the Landscape and Visual Appraisal¹² (the LVA) submitted with the original

¹⁰ Lenham Site 5

¹¹ CD9/5

¹² CD2/9

application in that it failed to follow the guidelines for assessment as set out in the Guidelines for Landscape and Visual Impact Assessment – Third Edition¹³. This included that the LVA was unduly narrow, failed to fully take into account the landscape characteristics and downplayed the role of the AONB in its assessment.

62. Whilst this position is noted, I also recognise that these matters were not raised at the application stage but only when the Council's proof of evidence was submitted. In any event, I am satisfied that matters in respect of the assessment of the site were adequately covered through the testing of evidence at the Inquiry.
63. Much was made about the accuracy of the photographs and the viewpoints presented during the Inquiry. Consequently, I undertook an accompanied site visit of each of those viewpoints, including the disputed view from the south-east as well as the alternative viewpoints put forward by the Council's landscape witness, and I have been able to reach my own conclusions as to the effects of the proposal when seen from those viewpoints.
64. Due to the undulating topography of the site and surrounding landscape and extensive areas of intervening vegetation, I observed that the site is not visually prominent within longer distance views, neither from the south nor from within the AONB to the north. There would be some change, predominantly in that rooftops of the proposed development would be glimpsed in some views. This would give a sense of more development within the landscape and would cause some erosion of the rural landscape. A modest degree of harm would arise from this. However, the closing of the gap between the two settlements would not be apparent in these distance views as the two settlements are not clearly visible at the same time.
65. Specifically in terms of the effect upon the AONB, there would be some erosion of the rural character within its setting. However, this would not be prominent and overall, it would not lead to unacceptable adverse impacts on either the setting of or the AONB itself.
66. I observed the 'Welcome to Harrietsham' sign on the A20 to the east of the appeal site, which I was told is a highways sign erected by KCC. This is some distance outside the settlement. The sign does not align with any prominent built development that would suggest the settlement begins at that point. It therefore does not alter my findings as to the character or the extent of the settlement area.
67. For these reasons, I conclude that the proposed development would cause significant harm to the character and appearance of the area. It would therefore conflict with Policies SP17, DM1 and DM30 of the LP which together seek to protect the character and appearance of the countryside, retain the separation of individual settlements and respond positively to local character taking into account Character Area Assessments.

¹³ CD9/1

Other considerations

Planning Policy Context

68. Paragraph 11 d) of the Framework sets out that for decision taking where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless: i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
69. In accordance with the approach established through case law¹⁴, a consideration of which policies are the most important must be made and an assessment about whether these are out-of-date. It is for the decision-maker to consider whether the 'basket' of most important policies as a whole is out-of-date or not for the purposes of the decision, a matter which I return to in my conclusions below.
70. The LP sets out the planning strategies and policies for the borough for the period 2017-2031. A number of policies are relevant to the application. However, those most important relate to the spatial strategy, the protection of the countryside, the use of previously developed land and landscape impacts. I therefore conclude that Policies SS1, SP5, SP17, DM1, DM5 and DM30 of the LP are most important. With the exception of Policy SP5, this accords with the agreed position of both parties as set out in the Planning Statement of Common Ground¹⁵. Notwithstanding this position, I note that the appellant's planning witness, in his proof of evidence¹⁶, has also indicated that Policy SP5 which relates to settlement boundaries is also a most important policy. I concur with this view as this relates to where development should occur.
71. Paragraph 219 of the Framework sets out that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them according to their degree of consistency with the Framework. Such an approach has been established through case law¹⁷ where it has been held that there are a number of reasons why a policy may be considered out-of-date including that they have been overtaken by things that have happened since they were adopted, either on the ground or in some change of national policy or for some other reason.
72. Of the most important policies, the appellant has argued that Policies SS1, SP5, SP17 and DM5 are all out-of-date. I addressed my findings in respect of the consistency of Policy DM5 earlier on my decision; on the basis of that, it follows that I do not consider this policy to be out-of-date.
73. I have also discussed Policies SS1, SP5 and SP17 under the first main issue. The appellant asserts that these policies are each out-of-date as they are

¹⁴ CD4/6 Wavendon Properties Ltd vs SSCLG and Milton Keynes Council [2019] EWHC 1524 (Admin)

¹⁵ CD1/7

¹⁶ CD1/10

¹⁷ Bloor Homes Ltd v SSCLG [2014] EWHC 745 (Admin) and Gladman Developments v SS & Central Bedfordshire Council [2019] EWHC 127 (Admin)

- based on an out-of-date housing requirement and settlement boundaries that reflect that requirement, thus preventing the Council from being able to achieve an adequate housing supply. In support of this position, it argues that the assessment of housing need has been superseded by the introduction of the standard method.
74. The existing settlement boundaries are based on the LP housing requirement figure of 883 dwellings per annum (dpa). I accept that this number needs to be increased in accordance with the standard method. I also recognise that case law¹⁸ has confirmed that the weight to be given to restrictive policies could be reduced where settlement boundaries were drawn up on the basis of out-of-date housing requirements.
75. Notwithstanding this, the evidence suggests that despite these settlement boundaries, the current spatial strategy is working as it has delivered a much higher level of housing than the adopted LP figure over the last 5 years. This does not suggest to me development has been constrained by these settlement boundaries. I therefore do not find these policies, either in respect of settlement boundaries or the protection of the countryside are out-of-date.
76. Policy LPR1 of the Local Plan deals with the review of the local plan. It states that the Council will undertake a first review of the local plan and identifies matters which may need to be addressed. This includes a review of housing needs and the identification of additional housing land to maintain supply towards the end of the plan period and, if required as a result, consideration of whether the spatial strategy needs to be amended to accommodate such development. It states that the target adoption date for the review of the local plan is April 2021.
77. The purpose of Policy LPR1 is to secure early review of the LP to address issues in relation to housing delivery towards the end of the plan period to 2031. It was not considered to impact on strategy in the first 5 years of the LP. I appreciate that the first 5 years of the plan have now completed. However, the LPR is well underway. It has been submitted for examination following consultation under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. Stage 1 hearings have been completed and the Examining Inspector has issued his initial assessment regarding the over-arching soundness of the submitted spatial strategy.
78. The LPR will address the uplift in housing requirements necessitated by the adoption of the standard method through the allocation of housing sites. The Examining Inspector has recommended that a stepped trajectory for housing supply be applied, whereby a lower housing target be applied in the first 5 years on adoption of the plan to, amongst other things, factor in early over-delivery in 2021/22 and to regulate the significant step change in the housing requirement figure.
79. The appellant considers that the failure of the Council to undertake an expedited review of the LP in accordance with Policy LPR1 would have resulted in an assessment of how increased housing needs could be accommodated and, if necessary, amended settlement boundaries to address this. Given the over-delivery that has occurred and the Examining Inspector's findings, there is no evidence to show that the failure to complete the review by the target

¹⁸ CD4/4 Suffolk Coastal District Council v Hopkins Development Ltd [2017] UKSC 37

date set out in Policy LPR1 has or will lead to any failure or material slowdown in the delivery of housing. Therefore, it does not lead me to reach a different conclusion in respect of whether the spatial strategy, and specifically Policies SS1, SP5 and SP17, are out-of-date.

80. The Council has indicated that the LPR will be adopted in 2023. This has been challenged by the appellant in its further closing submissions¹⁹. It has asserted that on the basis of the Stage 1 findings, substantial work will be required in relation to some of the strategic sites in advance of the Stage 2 examination hearings inevitably leading to delay. The appellant's observations in this regard are not unfounded. However, even if the LPR is adopted in 2024, the Council is now working to a higher housing requirement in accordance with the Examining Inspector's findings and the overall strategy has been found sound. On this basis, I see no significant impediment to the Council continuing to deliver in the coming years arising from a delay to the adoption of the LPR.
81. In conclusion, I have found that none of the most important policies in the determination of the application are out-of-date, therefore the basket of policies is not out-of-date. The provisions of Policy LPR1 do not lead me to a different conclusion on this matter. I therefore conclude that the policy position is not a factor that would trigger the provisions of paragraph 11 d) of the Framework in this appeal.

Five Year Housing Land Supply

82. The parties dispute whether or not the Council can demonstrate a 5 year supply of deliverable housing sites. This is for the period 1 April 2022 to 31 March 2027. On the LP becoming five years old, the Council published a Five Year Housing Land Supply Addendum Statement in November 2022²⁰. This updated its 5 year housing land supply position statement at 1 April 2022 issued in September 2022²¹.
83. The dispute relates to the annual requirement figure, the calculation of the 5 year housing land supply (5YHLS) and if this should take into account past oversupply and a non-implementation rate, and if so, what that rate should be. In addition, the deliverability of certain sites included within the Council's 5 year trajectory are disputed. I deal with each of these matters in turn.

Annual requirement

84. The Council's starting point for calculating the 5 year supply is a figure of 1,157 dpa. This figure has been calculated using the standard method in accordance with paragraph 74 of the Framework and footnote 39. There is no disagreement on the methodology used but the inputs into that in terms of the affordability ratio are a matter of dispute.
85. The Planning Practice Guidance (the PPG)²² sets out how the standard method can be used to calculate a minimum annual local housing need figure. Step 2 of that calculation sets out that the average annual projected household growth figure, calculated under Step 1, should be adjusted based on the

¹⁹ INQ18

²⁰ CD7/7 and CD7/8

²¹ CD7/4

²² Paragraph: 004 Reference ID: 2a-004-20201216

- affordability of the area. It goes on to explain that the most recent median workplace-based affordability ratios, published by the Office for National Statistics, at a local authority level should be used.
86. The Council has used the 2020 affordability ratios, not those for 2021 as advocated by the appellant. The LPR was submitted for examination on 31 March 2022. On 23 March 2022, 8 days before submission of the LPR for examination, new affordability ratios were published.
 87. It is not disputed that in applying the 2021 affordability ratios, the housing requirement would be 1,194 dpa. Indeed, this point is acknowledged by the Council's strategic planning manager who explained to the LPR examination that there would be an anomalous situation arising from these two sets of figures, with the 1,194 figure being used in annual updates to the housing land supply position for the three year housing delivery tests and 5YHLS.
 88. The Council asserts that to adopt this number for the LPR would have required the Council to have to delay the LPR. It has also argued that this maintains consistency between the calculation of supply within the LPR and ensures that the plan-making and decision-taking figures are aligned.
 89. The Examining Inspector, in his Stage 1 findings, confirmed that the Council's use of the housing need figure of 1,157 dpa was soundly based. Notably, he found that, given the timing of the updated affordability ratio, imposing a requirement to update the figure of 1,157 dpa on the basis of the 2022 affordability ratios would be unreasonable.
 90. Paragraph 74 of the Framework is clear that the consideration of 5YHLS is against their housing requirement set out in adopted strategic policies or against local housing need, calculated using the standard method set out in national planning guidance. The Examining Inspector confirmed that no adjustments are required to the local housing need figure, but that the overall housing requirement would need to be expressed as a minimum.
 91. I appreciate that there are differences between plan-making and decision-taking. However, to apply a different approach to that being promoted through the LPR and already accepted by the Examining Inspector would result in a situation where the LPR housing figure is out-of-date before it has been adopted. The LPR is setting the requirement for the plan period, therefore to deviate from this at this early stage would create an unsatisfactory degree of uncertainty.
 92. Moreover, the advice within the PPG²³ is that local housing need calculated using the standard method may be relied upon for a period of 2 years from the time that a plan is submitted for examination. Notwithstanding this being predominantly a plan-making criterion, the LPR was submitted on 31 March 2022 and given the Examining Inspector's confirmation as to the figure, it would be reasonable to apply the advice as set out in the PPG in the peculiar circumstances of this case. It would therefore be reasonable for the Council to rely upon this figure for a period of 2 years since the plan submission.
 93. This is consistent with the Council's approach in the appeal before me. I consider that consistency between the LPR and the number to be used in decision-taking would be appropriate and to adopt the alternative 1,194 dpa

²³ Paragraph: 008 Reference ID: 2a-008-20190220

would be unreasonable given this. I therefore conclude that for the purposes of this appeal an annual housing figure of 1,157 dpa should be used.

94. Based on my conclusions above, the Council's 5 year housing requirement, including a 5% buffer, is 6,074 dwellings.

Oversupply

95. The Council has not included oversupply in its primary housing land supply calculation because it does not consider this necessary in order to demonstrate a 5YHLS. It does however provide calculations in relation to this to demonstrate that its housing land supply is both robust and that there is capacity in the supply, in the event that the supply of deliverable sites is not agreed.
96. Neither the Framework nor the PPG currently provide advice on oversupply in the calculation of housing land supply. However, the recently published NPPF Prospectus²⁴ has recognised this and that the current system has the potential to penalise those local planning authorities that overdeliver their housing requirements early in the plan period. It sets out the Government's proposal to amend national policy and guidance to enable a local planning authority to include historic oversupply in its 5YHLS calculations. Caselaw²⁵ has also established that whether or not to include oversupply within the 5 year calculation is a matter of planning judgment.
97. Since the LP was adopted, 6,717 dwellings have been delivered against the LP requirement for the period 2017-2022 of 4,415 dwellings. This amounts to an over delivery of 2,302 dwellings, equivalent to around 460 dpa.
98. In 2021/22 housing delivery was 1,627 dwellings, 470 homes in excess of the housing requirement of 1,157 dpa. The Examining Inspector recognised this and confirmed that this over-supply should be positively factored into the housing trajectory, thereby lowering the housing target for the first five years from 1 April 2022. This would play through as a lower housing target for years 1-5 on adoption (2022-2027) of the LPR.
99. This approach would be appropriate in terms of plan making as the base date of the LPR, 1 April 2021, aligns with the period related to the over delivery discussed by the Examining Inspector. However, there is no reason why, in the context of this appeal, that over-delivery cannot be either used to adjust the overall requirement against which the supply should be assessed or, at the least, weighed against any shortfall.
100. The appellant argued that affordability ratios take into account oversupply therefore to count oversupply against the housing requirement would be double-counting. However, there is no indication of this within the PPG, although it does expressly state that it takes into account under delivery. Moreover, the affordability ratio is calculated by dividing house prices by gross annual workplace-based earnings²⁶. It does not measure housing delivery and is influenced by factors unrelated to this, such as wage changes, or a change

²⁴ DLUHC Open consultation Levelling-up and Regeneration Bill: reforms to national planning policy, published 22 December 2022

²⁵ CD4/3 – Tewkesbury Borough Council v SSHCLG [2021] EWHC 2782 (Admin), PTSR 340

²⁶ INQ7

in house prices affected by some other change locally, an example being the delivery of infrastructure.

101. Furthermore, even if affordability ratios take into account oversupply, there is a time lag between housing delivery information, data on sales prices and the calculation of the affordability ratio. This suggests that the latest affordability ratio could not have taken into account the oversupply in the last year, in this case 2021/22, when there were some 744 dwellings above the adopted LP requirement of 883 dpa. For these reasons, I do not consider that taking into account oversupply would amount to any double-counting.
102. It has been argued that any oversupply should be applied to the entire plan period, that is from 2011/12 to 2021/22. This would reduce the oversupply to 1,009 dwellings, equivalent to 202 dpa. However, the housing requirement figure in the LP takes account of housing delivery between 2011 and when the LP was adopted. It is therefore reasonable to calculate the oversupply against the years since adoption of the plan, that is the past 5 years, as advocated by the Council.
103. On this basis, I conclude that 2,302 units is the oversupply figure. It would be reasonable to factor this figure into any calculation of the 5YHLS.

Non-implementation rate

104. The effect of a non-implementation rate is to reduce the overall housing land supply to reflect a position where certain developments do not get implemented. There is no policy or guidance setting out a requirement to apply a non-implementation rate in the calculation of a 5YHLS. The Council nevertheless does so in order to ensure its calculations are robust. The LP sets this rate at 5%.
105. The Council considers that, in the context of what makes a site deliverable and relevant caselaw²⁷, which I discuss in more detail below, a non-implementation rate artificially reduces the assessment of deliverability. The argument being made that simply because a planning permission lapses does not mean that it was not deliverable. On this basis, it has argued in its closing statement²⁸ that a non-implementation rate should not be applied.
106. Whilst this position is noted, there is also evidence to demonstrate that non-implementation has occurred. Data collected from the past 14 years shows that an average of 1.9% of planning permissions have expired and this figure was put forward by the Council in its submissions as an appropriate non-implementation rate. Notwithstanding the Council's position in closing, it did concede on cross-examination that a non-implementation rate should be applied.
107. Bearing in mind the purpose of the 5YHLS, as set out in the PPG²⁹, which is to provide an indication of whether there are sufficient sites available to meet the housing requirement, the inclusion of a non-implementation rate adds robustness to this assessment. The Council, as a matter of good practice has and continues to advocate such an approach, as demonstrated by its inclusion of a non-implementation rate as part of the LPR. I therefore consider that the

²⁷ CD4/5 – St Modwen Developments Ltd v SSCLG [2017] EWCA Civ 1643

²⁸ INQ12

²⁹ Paragraph: 003 Reference ID: 68-003-20190722

application of a non-implementation rate would be appropriate in these circumstances.

108. The Council has argued that the rate should be 1.9% to reflect actual non-implementation rates. This matter has also been considered by the LPR Examining Inspector. He concluded that the evidence exists for the Council to soundly apply a 3% non-implementation rate based on local monitoring rather than the more cautious 5% that has been used, although he accepted evidence supported a 2% (rounded up from 1.9%) non-implementation rate.
109. There is firm evidence to support the rate of 1.9% advocated by the Council in the context of this appeal, which is broadly in line with the findings of the Examining Inspector. Therefore, I consider a rate of 1.9% would be appropriate.

Deliverability

110. The final consideration of the 5YHLS relates to the deliverability of sites. The Framework sets out within its glossary that to be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within 5 years. It goes on to give examples under a) and b) of the categories of sites which are capable of meeting that definition. Under a) this includes all sites with detailed planning permission; and under b) those sites which have outline planning permission for major development and whether there is clear evidence that housing completions will begin on site within 5 years.
111. The parties dispute whether certain sites meet the definition of deliverability. None of the sites are disputed on grounds of availability, suitability or achievability. The dispute centres on whether there is a realistic prospect that housing will be delivered. In respect of this, I am mindful of the judgment in the *St Modwen Developments Ltd v SSCLG* case³⁰ which recognised that deliverability and delivery are not the same thing. Thus, whilst a particular site may be capable of being delivered within five years does not necessarily mean that it will be. There are various reasons for this which are beyond the control of the local planning authority. The judgment goes on to confirm that a site may be included in the 5 year supply if the likelihood of housing being delivered on them within the five-year period is no greater than a realistic prospect.
112. Following examination of both parties' evidence, a revised set of figures in relation to housing land supply was submitted to the Inquiry in HLS Update Note³¹ and this is the starting point for my assessment.
113. The Council sets out in the HLS Update Note that it has a total supply of 6,283. However, the figure when adding up the different categories of site contributing to delivery is actually 6,244 dwellings. This lower figure takes into account that the Council agreed that 39 dwellings should be removed from the trajectory in respect of the Pested Bars site. I have therefore proceeded to base my assessment on this correct figure. Thus, the Council's position must be that it has a supply of 6,244 dwellings, the appellant considers the Council has 4,507.

³⁰ CD4/5

³¹ INQ8

Sites with detailed planning permissions (full or reserved matters)

114. The appellant has disputed that two sites, Land west of Church Road which has full planning permission, and Land at Farleigh Hill, which has all reserved matters approved, will be delivered within the 5 year period. The appellant's primary argument in respect of these two sites is that the delivery rate is too high. This is based on research by Lichfields into build-out rates³² that indicates average delivery rates of 47dpa for sites in excess of 50 dwellings. The appellant considers that 142 dwellings and 72 dwellings respectively should be removed from the trajectory to reflect a slower speed of delivery.
115. In both these cases, the schemes are being delivered by major housebuilders, with both schemes incorporating some flatted development, 100 units in the case of the Church Road scheme and 63 for Farleigh Road. It is accepted that flatted development has a quicker build out rate than houses.
116. In terms of the test of deliverability, the Framework definition states that all sites with detailed planning permission should be considered deliverable unless there is clear evidence that homes will not be delivered. Whilst the appellant's opinion on build rates is noted, these are experienced housebuilders who have set out the delivery trajectory and the schemes include flatted development. I have not been provided with clear evidence that the scheme would not be delivered as indicated, I therefore conclude the disputed 142 dwellings and 72 dwellings respectively should be kept in the trajectory.

Major sites with outline consent

117. Land south of Sutton Road is categorised as a major site with outline consent. It was approved on 18 April 2018, subject to reserved matters which split the site into 6 phases. Phases 1 and 3 have reserved matters approval and delivery of these is not disputed. Reserved matters applications for the remaining four phases, 2, 4, 5 and 6, are anticipated to be approved in January or February 2023. The developer is a major housebuilder and there is a planning performance agreement (PPA) in respect of the remaining phases. The housebuilder has also provided a trajectory, based on an average build out rate of around 45dpa, and confirmed in writing that delivery is expected to be at this rate.
118. The appellant considers that years 1 and 2 of that trajectory for phases 2, 4, 5 and 6 should be removed from the trajectory thereby reducing its contribution to 5YHLS by 91 dwellings. I accept the Council's position that with a PPA in place and major housebuilders, delivery on the site is likely. However, reserved matters were outstanding towards the end of year 1 of the trajectory. To my mind, this makes it unlikely, in the absence of any firm evidence to the contrary, that delivery at the rate identified in year 1 will occur. I therefore remove 45 dwellings from the trajectory.

Allocation (Maidstone Local Plan 2017) Sites

119. The appellant disputes that 40 dwellings allocated in year 5 of the trajectory in relation to the LP allocated site at Land to the rear of Kent Police Training School should be included. This is on the basis that there have been no reserved matters and a new outline application has been submitted which is

³² CD8/13

pending approval subject to a section 106 Planning Obligation. The appellant has agreed that there is progress but considers there have been multiple extensions of time which makes delivery in accordance with the trajectory unlikely.

120. From the submissions, the reasons for delay are somewhat unclear, particularly given the s106 obligations do not appear unduly complex. However, delivery is allocated to year 5 of the trajectory, it seems to me that this is feasible, particularly when considered against the Council's phasing methodology which indicates that delivery would come forward in year 4 for allocated sites with outline permission awaiting a section 106 Planning Obligation as is the case here. I therefore conclude that the 40 dwellings should remain in the trajectory.

Allocation (Lenham Neighbourhood Plan) Sites

121. Land west of Old Ham Lane and north of the Railway is a site allocated in the LNP (No 5). It has been granted planning permission subject to completion of a section 106 Planning Obligation which remains outstanding with the reasons relating to nitrate neutrality which have now been resolved and KCC Highways. The trajectory identifies delivery of 80 dwellings in the final 2 years. It seems to me that with one outstanding issue on the section 106 Planning Obligation and a full planning permission pending, this site is likely to deliver within the period. The build rate is also not unduly ambitious. I consider these 80 dwellings should be kept in the trajectory.

Draft Allocation (LPR) Sites

122. The remaining disputed sites are proposed for allocation in the LPR. The majority of these sites were not included in the Council's initial Housing Land Supply from the 1 April 2022 published in September 2022, but were added into the Housing Land Supply Addendum following the LP becoming 5 years old.
123. The PPG³³ explains that as well as sites which are considered to be deliverable in principle, there are sites which would require further evidence to be considered deliverable. Relevant here are those which have outline planning permission for major development and those which are allocated in a development plan.
124. The draft allocations are not currently allocated in a development plan. Nevertheless, I consider that where there is evidence to demonstrate deliverability it would be reasonable to include them. The PPG sets out what that evidence of deliverability may include. This includes firm progress being made towards the submission of an application, for example through a written agreement between the local planning authority and the site developer(s) confirming delivery intentions, anticipated start dates and build-out rates; firm progress with site assessment work; and clear relevant information about site viability, ownership constraints or infrastructure provision.
125. The appellant has argued as a general point that these sites may be deleted or modified through the LPR examination process, which is supported by their own evidence to the examination. On this basis, the appellant considers they

³³ Paragraph: 007 Reference ID: 68-007-20190722

can only be included where there is strong intent to develop and clear evidence of delivery.

126. In support of its position, the appellant has referred to an appeal decision³⁴ at Little Sparrows, Sonning Common and the Inspector's findings that to amount to 'clear evidence', it should be cogent as opposed to simply mere assertions. This requires more than just being informed by landowners, agents or developers that sites will come forward and that a realistic assessment of factors concerning the delivery have been considered. Specifically, the Inspector concluded that securing an email or completed pro-forma does not in itself constitute 'clear evidence'.
127. Nevertheless, it was accepted in cross-examination by the appellant's planning witness, that a less formal exchange of emails or completed proforma could be capable of amounting to such evidence and that a precise application date is not required to demonstrate deliverability, depending on the nature of the evidence. Thus, a key factor in assessing the deliverability of the sites where such information has been provided is whether it includes a realistic assessment of factors concerning the delivery.
128. The Council has provided details on the components that contribute towards the Council's 5YHLS at 1 April 2022³⁵. The 5YHLS methodology sets out a phasing methodology, based on historic delivery evidence, to provide the baseline methodology for estimating delivery rates on large sites. The Council, in its submissions, has explained that this is not applied where direct feedback is received from developers. Whilst this approach is noted, it would be dependent upon the nature of that feedback and the extent to which it meets the evidence of deliverability set out within the PPG.
129. In carrying out my own assessment of these sites, I am mindful that the Examining Inspector has set out his findings, concluding that the Council has, to date, soundly profiled much of its deliverable and developable supply, including evidence of constructive and appropriate engagement with site promoters and developers. In the context of the above, I deal with each site in turn.

- (i) Land east of Lodge Road – It is agreed that there is intent to develop the site which is a draft allocation for 78 housing units with employment land. Issues around employment land uses resulted in withdrawal of an earlier application which proposed 94 dwellings. The Council initially included 94 dwellings within its trajectory but reduced this following cross-examination to 78 dwellings.

The developer has reconfirmed delivery and indicated that it intends to resubmit. The absence of a date for resubmission does not mean there is no realistic prospect of the site coming forward within the 5 years, although it is likely delivery would be pushed back from years 2 and 3 in the trajectory. Therefore, 78 dwellings should be kept in the trajectory.

- (ii) Keilen Manor – 47 dwellings are proposed within the 5 year period, to be delivered in years 3 and 4. No application has been submitted. However, there is an email from the site developer, a local

³⁴ CD4/8 – APP/Q3115/W/20/3265861

³⁵ CD7/6

housebuilder, who has set out its intention to gain permission in 2023 and for completions to begin in 2024. The delivery rate is modest, at 24 dwellings and 23 dwellings in years 3 and 4 of the trajectory. Therefore even if there was some slippage, there is a reasonable prospect that these homes will be delivered in the 5 year period. Thus, 47 dwellings should be kept within the trajectory.

- (iii) Haven Farm – This site is identified as delivering 52 units, split across years 4 and 5. A pending hybrid application was submitted in October 2022 with 104 homes submitted in 'full'. There is a PPA in place in respect of around 110 dwellings which the Council explained is to determine the application on adoption of the LPR. On this basis, the Council has included 52 dwellings in the trajectory for years 4 and 5.

The appellant disputes the speed of delivery on the basis of the phasing methodology that estimates delivery coming forward for 'full' applications pending decision to be in year 4 of the trajectory. Since this application was submitted in October 2022, some months after the baseline, it should be considered from the next year. The PPA was signed on 13 April 2022 and therefore very shortly after the base date. It demonstrates firm progress and a commitment to develop which supports coming to a different conclusion on timings as set out within the phasing methodology. It is therefore reasonable to include this within the 5 year supply as indicated by the Council.

- (iv) Land south of the A20 – The site is included in the LPR with identified capacity for 53 units, to be delivered in years 3 and 4 of the 5 year period. Planning permission has recently been refused³⁶ for 58 homes in August 2022. The applicant is preparing a resubmission and/or to appeal which the appellant agrees demonstrates a strong intention to develop. However, the appellant disputes the speed of delivery and considers 25 homes should be removed.

The reason for refusal was on layout and design rather than in principle. The applicant is a local housebuilder and has confirmed the site's deliverability in the plan period. Taken together, these factors provide an indication of firm progress and I have no reason to find there is not a reasonable prospect that the site will deliver the 53 dwellings included in the trajectory although possibly a year later. They should therefore be retained.

- (v) Home Farm – The Council considers 50 units will be delivered on this site, split across years 4 and 5. An application on this site was withdrawn. There is no firm evidence of a further submission although the Council referred to an email received during the Inquiry indicating intent to submit. The developer has confirmed that the site is available for development immediately and confirmed the trajectory indicating permission in 2024 and completions from 2026. However, in the absence of clear evidence of a further submission, completions may not commence as early as the Council suggests. I therefore find there is insufficient evidence to include this site within the trajectory and 50 units should be removed.

³⁶ Council Ref: 21/506821/FULL

- (vi) Maidstone East and Maidstone Sorting Office – The draft allocation identifies the site to deliver a mix of uses, including a minimum of 500 homes, retail and business floorspace and other town centre uses plus a commuter car park for Maidstone East railway station. 221 units are included in the trajectory, 102 in year 4 and 119 in year 5. No planning application has been submitted but there is an application in early stages. The site is under the control of the Council and Network Rail, with the proposals for development relating to the Council owned land. The appellant agrees that there is a strong intent to develop as the site is being promoted by the Council but disputes that it will come forward as quickly as stated given the complexities of the site.

There is no firm evidence as to when an application will be submitted. Furthermore, the site is complex and in dual ownership, and whilst the trajectory relates to the Council owned part of the site, despite willingness of the Council, I do not have firm evidence that delivery will commence and progress at the pace indicated in the trajectory. Moreover, the Itemised HLS at 1 April 2022³⁷ indicated delivery on site only in 2026/27, therefore year 5 and for 49 dwellings. The November 2022 5YHLS Addendum³⁸ indicates delivery in year 4 of 102 dwellings and year 5 of 119 dwellings. There is no evidence to substantiate this altered position.

I therefore conclude that delivery is likely to be in year 5. The Lichfield's 'Start to Finish'³⁹ research indicates a build out rate on average of 73 dpa on sites delivering between 500 and 999 homes. I recognise that flatted development may deliver quicker and this scheme may deliver flats. However, I have no firm evidence as to how much quicker. Therefore, I consider that the site delivery should reflect the average rate of 73 dpa. As such, I consider 148 dwellings should be removed from the trajectory.

- (vii) Maidstone Riverside – Together with surrounding land, this site has been subject to opportunity guidance published by the Council in 2019/20 which sets out how the area could accommodate around 650 units. 210 units are included within the trajectory. In connection with this, an environmental screening application for a mixed-use redevelopment scheme including 446 units has been submitted in September 2022. The Maidstone Riverside site is subject to an outline planning application for 75 homes, submitted in September 2022. In combination the Council considers these sites could provide up to 521 units.

The appellant has argued that since the application was received after the 1 April 2022 base date, it should only be considered for the next monitoring year. The PPG does allow for sites for which there has been no application submitted, in that it makes provision for supporting evidence to include 'firm evidence being made towards the submission of an application'. Thus, submission after the base date would not rule this site out from inclusion, in my view.

³⁷ CD7/5

³⁸ CD7/8

³⁹ CD8/13

I accept that there is intent to develop demonstrated by these applications. I was also told there was a PPA in place for another part of the site but I do not have information about this. However, I have not been provided with the firm evidence that confirms delivery intentions, timescales and build-out rates. Applying the Council's phasing methodology in the context of the date of the application would suggest that delivery would occur in year 6. I am therefore unable to conclude that this has a reasonable prospect of delivery within the 5 year period.

- (viii) Forstal Lane – This site has been proposed by the Council for inclusion in the LPR as a main modification and a swap for another draft allocation. No applications have been submitted. The site promoter has confirmed that the site remains deliverable within the plan period. The Council has included 63 dwellings in the trajectory with permission expected to be gained in 2023. The delivery rate is based on 21 dpa from year 3. However, in the absence of any application or evidence of one, nor any written agreement confirming delivery, the deliverability of this site is not demonstrated. 63 units should therefore be removed from the trajectory.
- (ix) Eyhorne Street – This draft allocation proposes 9 units which the Council considers should all be included. No applications have been submitted and other than an email from the developer, indicating a reasonable best guess of development occurring within the 5 year period there is no firm evidence to support this. The 9 units should therefore be excluded.
- (x) Kenward Road – The draft allocation proposes 100 units on this site. This is the figure the Council considers would be delivered within the 5 year period. There has been pre-application advice in late 2022 including a Member briefing. Three technical studies of the site have been completed. These factors demonstrate a strong intention to deliver. The site promoter proposes a scheme for 125 dwellings based on technical evidence and the intention appears to be to submit on this basis. There is no certainty that this would be supported which could lead to some delay.

The developer has confirmed the trajectory and based on outline permission being granted in 2023, completions starting in 2025. The build out rate is modest, 25 units in year 3, followed by 50 in each of the remaining two years of the 5 year period. This indicates to me a reasonable prospect that these houses will be delivered during the period. However, as it is unknown whether 125 units would be acceptable, only 100 units, as originally included within the 5 years supply, should be retained within the trajectory.

- (xi) Ware Street – The trajectory includes 80 units to be delivered within years 3 and 4. There has been direct contact with the site promoter who has confirmed that the developer, described as a significant housebuilder in the local and wider south east area, is keen to submit an application with plans for further pre-application engagement. The expected phasing and delivery trajectory on site has been confirmed. There has been some delay in that the proposed pre-application advice was not sought in Autumn 2022 as indicated, therefore development

may occur later. The Council had already adjusted delivery to reflect this and there is further scope for it to start to deliver later. There is a reasonable prospect that this site will deliver the 80 homes within the 5 year period. These dwellings should therefore be retained within the trajectory.

- (xii) Abbey Gate Farm – This site has been identified for 45 units to be delivered in year 5. The only evidence of delivery is an email from the site promoter confirming expected phasing and delivery. That simply reconfirmed the delivery trajectory assumptions put to the LPR. It provides no indication of any progress towards submission of an application. This suggests an intention to develop which in accordance with the phasing methodology would see delivery commencing in year 6. There is no evidence of firm progress towards the submission of an application or written agreement about delivery. These 45 units should therefore be excluded from the supply.
- (xiii) Copper Lane & Albion Road – A total of 113 units are proposed to be delivered from this site in the 5 year period, roughly evenly split over years 3, 4 and 5. A pre-application meeting was held with the Council in June 2022 and the promoter reconfirmed the trajectory in July 2022. This indicates permission in 2023 and completions beginning in 2025. A major housebuilder has been identified as an interested developer. There is evidence of intent to deliver the site and some evidence of progress to suggest that an application is forthcoming. Given this, permission may be more realistic in 2024. On this basis, the trajectory should be pushed back. I therefore remove 38 dwellings from the supply.
- (xiv) EIS Oxford Road – 20 units are identified in the trajectory for this site which is owned by KCC. This is a brownfield site within an urban area. The capacity of the site has been questioned, with the site promoter considering a higher number of units and viability around that. There has been no pre-application engagement and no evidence has been submitted to indicate firm progress towards an application being submitted. In view of this, and the discussions around site capacity and viability, there is insufficient evidence to confirm that the 20 units would be delivered within the 5 year period. They should therefore be removed from the trajectory.
- (xv) Moat Road – This site is identified as providing 110 units, delivering over years 3 to 5 at a rate of 30, 55 and 25. The site promoter confirmed the trajectory in July 2022 and pre-application advice was provided on the site in August 2022. The Council has advised that community engagement has started. However, there is no application as yet although I accept actions to date indicate progress towards this. The trajectory is based on permission in 2023 and commencement and some completions in 2024 which may be a little ambitious. Thus, whilst I consider there is a realistic prospect of the site being delivered in the period, a later start date for delivery in year 4 would be more appropriate given progress in making an application. Consequently 25 units should be removed from the trajectory.

- (xvi) Campfield Farm – 30 units are listed for this site, evenly split as delivering over years 3 and 4. The site promoter has emailed confirming agreement to the suggested trajectory. However, there is no evidence of firm progress towards the submission of an application or a written agreement about delivery. 30 units should therefore be removed from the trajectory.
- (xvii) Police HQ Land, Sutton Road – This site has 45 units to be delivered in year 5. There is currently an outline application pending decision for part of the site and an expectation that site promoters will come forward with an application for the wider site. There has been no direct feedback from the developers but in the absence of this, the assumed delivery rate therefore accords with the phasing method. Although the application for the wider site is expected and the two may run in tandem, the current application is nonetheless evidence of firm progress. The 45 units should therefore be retained.
- (xviii) Springfield Tower – The trajectory shows 115 units being delivered in year 4. The Council recently purchased the site with the intention of redeveloping it for affordable housing. There is an email setting out the Council’s intentions to submit an application in early 2023 and commence building about a year later. No application has been submitted and the appellant has highlighted an earlier scheme on the site having been refused on grounds relating to heritage assets, amenity, scale and siting. Whilst no application has been made, the Council has indicated a strong intention to develop the site, which has been reported in the press and identified as a corporate priority.

On this basis, the delivery rate should be in accordance with the phasing methodology, which would be for year 5 where there is strong intent. The quantum of development is high but the proposal is for flatted development and the amount is reasonable. The 115 units should be retained in the trajectory.

The Council has indicated that the quantum of development should be increased to 150 units as set out in the draft allocation. It revised its trajectory to reflect that higher figure in its updated HLS Calculations during the Inquiry. However, there is no indication from the developer that this is the quantum they are planning to deliver. I therefore remove the additional 35 units from the trajectory.

130. On the basis of my assessment above and the evidence submitted, I remove 718 dwellings from the supply of deliverable housing sites.

Conclusions on 5YHLS

131. Drawing together my findings on these matters. The Council’s housing land supply position of 6,244 units is reduced to 5,526 units. With a non-implementation rate of 1.9% applied, this would further reduce the supply by 105 units. The Council can therefore demonstrate a supply of 5,421 units and a deficit of 653 dwellings against the housing requirement of 6,074 dwellings. This equates to 4.46 years supply.
132. As I have already found, in the circumstances of this appeal, it is reasonable to take into account that the Council has overdelivered in the previous 5

years. This figure amounts 2,302 units which should be taken off the housing requirement figure. This would reduce the 5 year requirement to 3,772 units. This would amount to a 1,649 dwelling surplus, and an overall figure equating to a 7.19 years supply.

133. Even if I am wrong and the oversupply figures should be applied across the whole plan period as advocated by the appellant, there would still be a surplus of 356 units and an equivalent housing land supply of 5.35 years. In both scenarios, the Council can meet the requirement.
134. I am therefore able to conclude that the Council can demonstrate a 5YHLS and thus paragraph 11 d) of the Framework is not engaged on this basis.

Benefits

135. The proposal would contribute to the local economy, providing both direct and indirect construction jobs. The increased population would also contribute to the local economy through expenditure in local shops and on local services. These carry moderate weight in favour of the scheme.
136. The provision of 109 new dwellings would help to support strong, vibrant and healthy communities. The proposed delivery of 44 affordable dwellings, including First Homes, against a cumulative shortfall of 449 affordable homes since 2013 would help to meet a known need for this type of housing within the local area. The appellant considers 83 dwellings could be delivered in the current 5 year period. This would contribute to the Government's aim to significantly boost the supply of housing. Together, the benefits arising from the delivery of housing, including affordable housing, attract significant weight.
137. In other respects, the scheme would deliver a combination of formal and informal open spaces, circa 2.13 hectares of public open space plus the submitted section 106 Planning Obligation would secure a contribution towards the provision, improvement, refurbishment and maintenance of existing areas of allotments, sports facilities or open space within 1 mile of the development. All of this would be within walking distance of the proposed development. However, these benefits are intended to serve the needs of the development and they contribute limited weight in favour of the proposal.
138. The scheme would also provide some ecological enhancement of the site, including a biodiversity net gain and other environmental benefits in the form of energy and carbon reduction. These benefits carry modest weight.
139. I have already discussed the accessibility of the location and have found that some occupants may not require the use of a private car to access services but the majority would be likely to. The accessibility and proposed improvements therefore carry modest weight.

Planning Balance and Conclusion

140. I have found that the Council can demonstrate a 5YHLS and that the basket of policies most important for the determination of the application are not out-of-date. Therefore, the presumption in favour of sustainable development as set out under paragraph 11 d) of the Framework does not apply.

141. The scheme would deliver a number of social, economic and environmental benefits as well as a boost to housing supply. Cumulatively, the benefits of the scheme carry moderate weight.
142. However, my finding is that the proposal conflicts with the spatial strategy for the area and that the significant harm to the character and appearance of the area would be in conflict with development plan policies. This would not be outweighed by the benefits of the scheme. My conclusion is therefore that the scheme conflicts with the development plan as a whole.
143. The proposed development would be contrary to the development plan and there are no material considerations that outweigh this conflict. Consequently, with reference to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal should be dismissed.

Rachael Pipkin

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Mark Henderson He called	Counsel for the Local Planning Authority
Ms Jaquelin Clay BSc MSc CMLI FAE	Of JFA Environmental Planning
Mr Jeremy Butterworth BSc (Hons) MA MRTPI	Of J Butterworth Planning Limited
Ms Marion Geary	Principal Planning Officer, took part in round table session on conditions and planning obligations

FOR THE APPELLANT:

Mr John Litton KC He called	Counsel for the Appellant
Mr Tim Wall BA MSc MCIHT CMILT	Of i-Transport
Mr Ben Connolley BSc (Hons) PG Dip LA CMLI	Of The Environmental Dimension Partnership Ltd (EDP)
Mr Joshua Mellor BSc (Hons) MSc MRTPI	Of Barton Willmore now Stantec

INTERESTED PARTIES:

Mr Paul McCreery MRTPI	Lenham Parish Council
Mr Eddie Powell	Chair, Harrietsham Parish Council
Ms Glenda Dean	Vice-Chair, Harrietsham Parish Council
Cllr Janetta Samms	Harrietsham and Lenham Ward Councillor
Ms Alison Davis	Local resident
Mr Christopher Roots	Local resident

INQUIRY DOCUMENTS

INQ1	Provisional TPO
INQ2	Appellant's Opening
INQ3	Council's Opening
INQ4	Henny Shotter (CPRE) email and attachment
INQ5	Speed Survey information
INQ6	Emails between JC and BC re: Alternative Viewpoint 3
INQ7	Email from Eliot Mortimer, Barton Willmore now Stantec, dated 14 December 2022 – Maidstone Affordability Ratios
INQ8	Housing Land Supply Update Note, 19 December 2022
INQ9	Draft conditions, updated version, 09 January 2023
INQ10	Site Boundary Plan (Drawing No. BM-M-07D)
INQ11	Proposed Access Arrangement Plan (Drawing No. ITB15696-GA-001 Rev E)
INQ12	Council's Closing Submissions
INQ13	Appellant's Closing Submissions
INQ14	Maidstone Local Plan Review letter, dated 11 January 2023
INQ15	Certified copy of Completed S106 Agreement dated 24 January 2023
INQ16	Further submissions on behalf of Maidstone Borough Council dated 25 January 2023
INQ17	Appellant's note following Local Plan Review Inspector's Letter dated 25 January 2023
INQ18	Appellant's Further Closing Submissions dated 29 January 2023