
Appeal Decision

Inquiry held 23 to 25 September and 30 September to 2 October 2025

Site visits made on 22, 24 and 29 September

B Davies MSc FGS CGeol

an Inspector appointed by the Secretary of State

Decision date: 22nd January 2026

Appeal Ref: APP/H2265/W/25/3366031

Land north-east and south of 161 Watringbury Road, East Malling, Kent, ME19 6JE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Esquire Developments against the decision of Tonbridge and Malling Borough Council.
 - The application Ref is TM/22/01570/OA.
 - The development proposed is an 'outline application: all matters reserved except for access for the erection of up to 52 residential dwellings, including affordable housing, open space and landscaping, roads, parking, drainage and earthworks. New access to be formed from Watringbury Road'.
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Decision

1. The appeal is allowed and outline planning permission is granted with all matters reserved except for access for the erection of up to 52 residential dwellings, including affordable housing, open space and landscaping, roads, parking, drainage and earthworks, and a new access to be formed from Watringbury Road at land north-east and south of 161 Watringbury Road, East Malling, Kent, ME19 6JE in accordance with the terms of the application, Ref TM/22/01570/OA, subject to the conditions in the attached schedule.

Procedural and preliminary matters

2. The application was made in outline form with all matters reserved apart from access into the site. Plans for determination are therefore the site location plan and those relating to external access. The 'Proposed Parameter Plan' is secured in a condition and is therefore also for determination. The remaining plans are for illustrative purposes only.
3. Two parties were granted 'Rule 6 party' status under Rule 6(6) of the Town and Country Planning (Inquiries Procedure) (England) Rules 2000 (Statutory Instrument 2000/1624). These were the Residents Against Development of Ivy Farm (RADIF) and the Kent, Tonbridge and Malling Residents Forum (which incorporates the Kent & Medway Residents Forum) (KTMRF).
4. At my request Tonbridge and Malling Borough Council (the Council) undertook further publicity to ensure that the notification procedures in regulation 5A of the Planning (Listed Buildings and Conservation Areas) Regulations 1990 had been met. I am now satisfied that all notification requirements were met.
5. The Council's planning witness was forced to retire during the inquiry due to ill health. It was subsequently agreed that the appellant's witness would not be cross

examined for reasons of fairness. The Rule 6 parties were still given the opportunity to put their questions to the appellant's witness. I am satisfied that this was a fair outcome for all concerned.

6. On the 14 August, RADIF requested that the inquiry be delayed because its replacement heritage witness needed more time to familiarise himself with the case. However, as this was nearly 6 weeks before the start of the inquiry, a delay could not be justified. Concerns were also raised by RADIF about the time available to review rebuttal proofs. I consider the time provided was adequate on the basis that it related to evidence already submitted, was the same for all parties, and that time was allowed at the inquiry to fully examine the issues.
7. RADIF also suggested that it was put at a disadvantage because they were only granted Rule 6 status in July compared to the much longer lead-in time for the main parties. KTMRP expressed concern that it had not had a fair opportunity to present its case at the inquiry because it was prevented from, amongst other things, repeating evidence and discussing topics that went beyond the appeal. For the avoidance of doubt, I am satisfied that the entire process has been undertaken both in a fair manner and in accordance with both the Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000 (SI 2000/1625) and the Procedural Guide: Planning appeals – England (2015).
8. A signed and dated deed of agreement between the Council and owner pursuant to section 106 of the Town and Country Planning Act 1990 (s106) was received on 21 October 2025. This secures numerous contributions towards local services, which are discussed further below, and commits the appellant to the delivery of affordable housing.
9. The application was refused by the Planning Committee contrary to the Council Officer's recommendation. It was originally refused for six reasons, including harm to heritage, 'historic landscape', protected species, a lack of sustainable travel options and harm to the living conditions of No 51 Watlington Road. The Council subsequently withdrew its objections in relation to sustainable travel, protected species and living conditions.
10. However, the Rule 6 and interested parties maintained their objections in relation to all these matters, raising additional concerns about the effect of the development on highway safety, air quality, housing need, provision of infrastructure, cumulative effects and procedural matters.
11. The Council's Core Strategy (CS) was adopted in 2007. The subsequent 'Managing Development and the Environment' Development Plan Document (DPD) was adopted in 2010. A 'Regulation 18' version of the draft Local Plan was approved on 21 October 2025 and is subject to public consultation until 2 January 2026. The main parties were given the opportunity to highlight any implications for their cases but, given the early stage of the emerging plan, I have given the proposed policies very limited weight.
12. The local development plan is of considerable age and significantly pre-dates the National Planning Policy Framework 2024 (the Framework). Paragraph 232 of the Framework directs me to give earlier policies due weight according to their degree of consistency with the Framework. Where necessary, I review local policy in this context.

13. On 16 December the Government published a consultation 'National Planning Policy Framework: proposed reforms and other changes to the planning system'. I afford this limited weight as a material planning consideration and, given the matters under scrutiny in this appeal, have not considered it necessary to revert to the parties.

Main issues

14. The main issues are the effect of the proposed development on:
- the setting of listed buildings, including Huntley Cottage, Ivy House Farm and Barn, and the non-designated heritage asset of Belvidere Oast
 - East Malling Conservation Area
 - the character and appearance of the landscape, including the 'historic landscape'
 - highway safety
 - ecology, in particular badgers, and
 - the living conditions of the occupants of the adjacent No 51 Wateringbury Road, with particular regard to privacy and light intrusion

Reasons

The effect on listed buildings and non-designated heritage assets

15. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving listed buildings and their settings. There would be no direct harm to any of the assets below and my assessment therefore focuses on the settings.

Grade II listed Huntley Cottage

16. Huntley Cottage (also known as 122 Chapel Street) is Grade II listed. It is described as a seventeenth century farmhouse with eighteenth century elevations. The remaining list details refer to the structure and architecture of the building.
17. There was debate about its original purpose. Having regard to the list description and for the purpose of assessing the more sensitive scenario, I have proceeded on the basis that it was originally built as a farmhouse.
18. The cottage is surrounded by fields and faces the appeal site. The association with the fields behind and to the sides is strong and this relationship dominates the setting. Intervisibility between Huntley Cottage and the appeal site is limited to glimpses through gaps in the intervening high, dense shelter belt. The contribution of the site to the agricultural setting of the asset is therefore positive but limited.
19. Improved maintenance of the intervening hedge would not sever the functional relationship between the cottage and appeal site given that the hedge is an existing rural feature. In any event, it is proposed to retain the orchard opposite. Even if used for a children's play area, I am not persuaded that the associated noise and disturbance would detract from the rural setting. I conclude that there would be no harmful change to the immediate setting of the asset.

20. There is an undeveloped stretch of land between the village of East Malling and Huntley Cottage that contributes towards understanding of the house in its original agricultural setting. Again, the strongest evidence of this relationship is provided by the land on the opposite side to the appeal site, which would remain open. The appeal site makes a much smaller contribution given the limited intervisibility between the two. Although the development would suburbanise the gap on the opposite side, I conclude that this would not significantly detract from the appreciation of the listed building in its wider setting.
21. The relationship with Watlingbury Road is key to the cottage's original location and this would not change. Based on the findings of the Transport Statement, I am satisfied that the increase in traffic generated by the development would not make a material difference to the existing situation.
22. I conclude that the appeal site makes a limited contribution to the setting of the heritage asset. Potential creation of open space opposite, partial suburbanisation of the gap towards the village and a non-material increase in traffic would not detract from appreciation of the significance of Huntley Cottage.

Grade II listed Ivy House Farmhouse and Ivy House Farm Barn

23. Ivy House Farmhouse is a Grade II listed farmhouse enclosing a possible former hall-house from the early fifteenth century, with sixteenth century additions. Ivy House Farm Barn is behind Ivy House Farmhouse and is described as seventeenth century with an eighteenth-century aisle. The remaining list details for both assets refer to the structure and architecture of the buildings.
24. The farmhouse is largely hidden from the public domain by trees and a high stone wall, and can only be glimpsed above the wall and along the driveway. The barn and land behind are entirely screened from public views. The farmhouse is separated from the appeal site, which is on the opposite side of the road, by at least 50 m.
25. The farmhouse and barn are on the built-up edge of East Malling's historic core. Travelling away from the village, they are separated from the surrounding fields by dense woodland. The opposite side of the road has been developed with a strip of relatively modern housing that extends to the appeal site boundary. These act to separate the assets from the wider agricultural land, both visually and in terms of character. When looked at from the road outside the farmhouse, the orchard associated with the appeal site can only be seen in a highly restricted view beyond this. The visual contribution of the appeal site to the setting of the assets is therefore negligible. I conclude that introducing roofs in the distance would not cause harm to appreciation of the significance of the farmhouse and barn.
26. There is influence from the appeal site on the setting of these assets from its contribution to the general rural character of the surroundings, which would become more suburban. However, there are modern houses in between, limited intervisibility and the wider surroundings remain rural. I conclude that a small overall reduction in agricultural land would not detract from appreciation of these assets.
27. There is evidence of ownership of both the site and the farmhouse by the Twisden family prior to 1900. However, the Twisdens appear to have been large landowners and there is no evidence of a special connection between the two

sites. I conclude that the significance of this relationship is negligible to appreciation of the asset and no harm would be caused in this respect.

28. I am satisfied that the increase in traffic on the road from the development would not be significant and would therefore not cause harm to the asset. The new access road would be on the village side of the appeal site. However, there is no evidence that this would cause significant additional noise from cars accelerating, light spill towards the farmhouse or other direct disturbance. In any event, the assets are largely screened from the road by the high wall, and separated from the appeal site by the woodland and houses opposite. I conclude that there would be no harm to the heritage assets from the additional traffic.
29. The site makes a very limited contribution to the setting of Ivy House Farmhouse and Ivy House Farm Barn, and for the reasons above, the significance of the assets would be preserved.

Grade II listed Rock Farmhouse

30. Grade II listed Rock Farmhouse is located on the roughly east-west ridge that marks the edge of the historical core of East Malling. It is listed as a former sixteenth century farmhouse with an early nineteenth century elevation. The remaining details refer to the structure and architecture of the building.
31. Rock Farmhouse is loosely surrounded by other houses, including some between the asset and the distant appeal site. There is little sense of any original agricultural setting and there is no intervisibility between the two locations. I conclude that the appeal site does not contribute to the setting of this asset and no harm would be caused through the development.

Belvidere Oast non-designated heritage asset

32. Belvidere Oast (also known as 161 Watlingbury Road) is listed on the Kent Historic Environment Record. It is a courtyard farmstead with buildings to three sides, including working agricultural buildings and an oast house. It is primarily of nineteenth and twentieth century construction, although the original farmhouse may be late seventeenth century. It has historically been surrounded by open fields and orchards, and its layout to support a working farm is still evident. Apart from its modest architectural interest and character, the significance of the asset relates to its importance as evidence of the area's agricultural past.
33. The buildings associated with Belvidere Oast are separated from the appeal site by a large garden area, hedging and some outbuildings, including a large, modern agricultural barn, which provides some screening between the sites. This part of the appeal site would be maintained as green space and orchard, and the immediate character of the area would not significantly change.
34. The orchard on the appeal site contributes to the general rural setting of Belvidere Oast. The effect of the wider suburbanisation caused by the development on the setting of the farmstead would be limited by distance, the intervening hedging, and the significant area of predominantly rural land remaining in the area. Belvidere Oast would still clearly read as a group of farm buildings around a yard facing the main road in a predominantly rural setting.
35. I conclude that the setting would be preserved and there would be no harm to the significance of Belvidere Oast from the development.

Non-designated heritage assets

36. Houses next to the site on Watlington Road are associated with a renowned horticulturalist and the reverend of a nearby chapel. While these houses may be of local interest, they have not been identified as non-designated heritage assets. In any event, I see no reason why development of functionally unrelated land would cause harm to the appreciation of these properties.

Potential post-medieval farmhouse group

37. A potential 'post-medieval farmhouse group' of Huntley Cottage, Ivy House Farm, Belvidere Oast and Rocks Farm was discussed at the inquiry. There is nothing in the list descriptions that identifies the group as a separate heritage asset. I also have nothing before me to suggest that there was a particular link between the farmhouses beyond a generic, shared relationship with the surrounding agricultural land. I conclude that there is not a specific 'post-medieval farmhouse group' in need of separate consideration.

Conclusions on listed buildings and non-designated heritage assets

38. There would be no harm to the setting of any listed buildings or non-designated heritage assets. I conclude that the proposal would preserve the significance of Grade II listed Huntley Cottage, Ivy House Farmhouse and Ivy House Farm Barn and the non-designated heritage asset Belvidere Oast. I have not found that the site contributes to the setting of Rock Farm, nor that the post-medieval farmhouses form a grouping that warrants separate assessment.
39. In respect of historical buildings there is therefore no conflict with Policy CP1 of the CS or Policy SQ1 of the DPD, which together require that the quality and interest of the historical environment is preserved. There is also no conflict with the policies in the Framework that protect listed buildings and non-designated heritage assets.

The effect on East Malling Conservation Area

40. The East Malling Conservation Area (CA) centres around the historic streets at the core of the village. The appeal site is about 50 m outside the boundary of the CA. The CA's historical interest relates to its illustrative value as a Kentish village. Its architectural interest relates to the quality of built form from various periods. Artistic interest is concentrated in the Church of St James. It has a high level of archaeological interest owing to its Iron Age occupation, presence of a possible Roman Villa and later Saxon occupation.
41. The CA appraisal does not identify locations on or near the appeal site as important 'focal points' or as contributing to its special character. It describes the surrounding landscape as 'distinctive' but does not expand on this in detail. The appraisal identifies that the area to the south, which includes the site, is dominated by arable fields and orchards, and these contribute to the area's historic legibility as a rural village with an agrarian past, including fruit growing and research.
42. When viewed from the south the CA forms the skyline on the East Malling ridge, before which are fields and orchards, including the site. This edge is associated with the location of historical farmsteads on higher, flatter ground. Views out of the CA towards the site are of a rural landscape with wooded hills beyond, which positively contribute to understanding the historical association of the village with the rural landscape.

43. The proposal would introduce significant development south of the ridge for the first time. The important skyline would remain, but the importance of the ridge as the historical edge of the CA would be diluted. The site would result in partial removal of an orchard and this would detract from the rural setting of the CA. These changes would be noticeable in distant views, such as those from Sweets Lane, along Wateringbury Lane and when looking out from the CA. There would therefore be harm to the setting of the CA from the development.
44. The harm would be mitigated by the tall, dense hedging around the appeal site, which provides a degree of screening and containment. In addition, when viewed from inside or outside the CA, extensive agricultural land remains visible and the agrarian setting would remain clearly legible. Allowing for these mitigating factors, I conclude that the harm would be at the lower level of 'less than substantial'.
45. While the congested roads decrease enjoyment of the village, there is nothing in the appraisal that links this to the significance of the heritage asset. In any event, the increase in traffic through the CA that would be caused by the proposal has been demonstrated to be immaterial. I conclude that the experience of the asset would not be harmed by the traffic generated by the development.
46. The appraisal concludes that the spring at Gillet's Hole is likely to have contributed to the location of the settlement and could have given rise to the name of the village. The sound and sight of the water is identified as being important to the character of the CA. For these reasons, I consider that the stream emerging at Gillet's Hole and running through the village is an important component of the CA.
47. No information has been provided on the hydrology of Gillet's Hole. Based on the proximity and topography of the appeal site relative to the spring, it is possible that the site contributes to its recharge. I am satisfied that any potential effects can be overcome with a condition that commits the developer to investigating this matter and implementation of mitigation measures as necessary.

Conclusions on the Conservation Area

48. The development would cause a low level of less than substantial harm to the setting of the East Malling CA through a reduction in orchard land and encroachment of built form to the south of the ridge. The development would therefore conflict with Policy CP1 of the CS and SQ1 of the DPD, which require that the historical environment and interest is protected.
49. My attention has also been drawn to potential conflict with other local policies. However, Policy CP6 of the CS protects the separate identity of settlements and Policy CP24 relates to design of the development, rather than being specific to heritage assets. I have therefore not had further regard to these in this context.
50. For the avoidance of doubt, section 72(1) of the 1990 Act in respect of decisions relating to development within conservation areas is not engaged because the site is outside the boundary of the CA.
51. Paragraph 212 of the Framework states that great weight should be given to an asset's conservation. A finding of less than substantial harm to the significance of a designated heritage asset must be weighed against the public benefits of the proposal according to paragraph 215 of the Framework. I return to this in the planning balance below.

The effect on landscape

52. The appeal site is a long commercial orchard running alongside Watlingbury Road at a low point in the landscape. It is largely surrounded by a high shelter belt of poplar trees, with a belt running across the site. It contains an electricity pylon and overhead wires bisect the site. Beyond the site, there is higher ground to the south and the ridge to the north marks the historical edge of East Malling.
53. The site is not covered by any statutory or planning designations for landscape character or quality. It is in Natural England's 'National Character Area 120: Wealden Greensand' (NCA120) and at county level is covered by Landscape Character Area (LCA) 'Greensand Fruit Belt Malling'. Both are large areas characterised by a flat to gentle undulating agricultural landscape, with fruit-growing orchards set within residual shelter belts. The Kent Historic Landscape Characterisation and the Landscape Assessment of Kent (2004) (KLA) also identifies that the local area contributes to fruit growing, which has influenced the landscape.
54. Many of the characteristics in these assessments can be observed at the site. The development would cause its character to change to residential in the northern part of the site. The southern, approximately third, of the site would be retained as orchard and open space. Gaps in the existing shelter belts would be filled and the hedges maintained. There would be an adverse effect on the character of the landscape on a local scale, both from the loss of orchard and increased residential land use.
55. The site makes a very small contribution to the large areas covered by the character assessments. In addition, the development would read as an extension to the existing village rather than as isolated or discordant in the rural landscape. The distinctive shelterbelts would be retained, as recommended in the KLA, and the overall sense that this location is on the edge of a rural area, which is in turn dominated by fields and orchards would remain. I conclude that the harm from loss of the orchard would have a negligible effect on the character of the landscape when assessed on a large scale.
56. The Council and Rule 6 parties highlighted the importance of the 'historic landscape', in part because of the area's association with the development of the apple industry after the second world war. There is therefore some cultural heritage value from the land use, albeit there are no specific designations in this regard. Although orchards and research have been, and still are, important in the area, there is no evidence that this orchard has particular importance beyond general support for the industry. While there is undoubtedly some harm to the landscape from this loss, I am satisfied that this is already incorporated in the assessment above.
57. The 'historic landscape' of the area would also have comprised dispersed farms and open, linear fields. However, the village has evolved significantly from this baseline and the layout on this side of East Malling is now highly variable, with infill between older properties, small estates and short lengths of ribbon development. I do not find that the proposal for a housing estate is incongruent with this mixed and continually evolving local character.
58. The site contributes to the rural setting of East Malling and framing of the village when approached from the south, beyond that already considered in the CA

section above. This would be eroded, albeit the effects would be partly mitigated through maintenance of the shelter belts, which would provide containment of the changed use. I conclude that there would be a small degree of harm from this to the character and appearance of the local area.

59. There would also be visual effects from the ridge to the south of the site, including Sweets Lane, from introduction of a housing estate below the village. This harm is reduced when viewed against the immediate backdrop of East Malling and would reduce further as new landscaping on the site matures. I conclude that the harm to the appearance of the area in the longer term is modest in this regard.
60. Views into and across the site from the public right of way running to the immediate east, and to and from the village would be partly blocked by the retained shelter belt and in time by the new landscaped 'buffer zone'. However, the new roofscape would be visible above and through the vegetation, views of the characteristic rural oast house cowls would be diminished and the sense of being surrounded by a rural landscape would be lost. I conclude that these visual effects would be harmful.
61. In conclusion, although I have not identified specific harm to the 'historic landscape', there would cumulatively be moderate harm to the character and appearance of the landscape at a local scale. These harms would reduce to a small degree of harm after the proposed landscaping has matured.
62. The proposal would therefore conflict with Policy CP1 of the CS, which requires that the quality of the countryside is preserved. I have identified a small degree of harm to the setting of the village and there is therefore conflict with Policy CP6 and SQ1 of the DPD, which protect the setting of a settlement. The relevant parts of these policies remain broadly consistent with the policies in the Framework and I therefore attribute them full weight in this regard.
63. I am not persuaded that Policy CP24(1) intends to prohibit the siting of development, which is already controlled through other policies, and CP24(3) is a design policy, rather than for protection of landscape. I have therefore not considered Policy CP24 further.

The effect on highway safety

64. Rule 6 and interested parties, including the parish councils, were united in their belief that the highway network had reached capacity and that the site could not be developed safely. RADIF's highway witness did not dispute the findings of the Transport Statement, but raised concerns that it did not reflect their lived experience and that it was 'desk based'.
65. At the site visit I observed that traffic through the village is often queuing and that the roads are sometimes too narrow for traffic to pass easily. I was provided with multiple reports of impatient drivers and poor driving. However, the outcome of the Transport Statement was that the additional trips caused by this development would not materially increase traffic. This assessment was accepted by both the Council and Highway Authority, who have expertise in this field, and I see no reason to come to a different conclusion.
66. My attention was drawn to accident data, including a recent, tragic death on Watlingbury Road near the site. However, I have no evidence that the number of

accidents is out of the ordinary, nor that it is materially increasing or would be increased by the development. In addition, it is not evidence that the accidents relate to the highway layout or design. I conclude that the additional cars generated by the development would not increase the risk to highway safety.

67. It is also highly likely that the development would generate non-vehicular users of the highway network, including cyclists and pedestrians. Paragraph 115 of the Framework states that 'safe and suitable access' to a site must be achieved for 'all users'. Although the local plan contains policies relating to sustainable transport, including the requirement for necessary enhancements to safety, it does not specifically reference safe access for all users and I have therefore relied on the more recent Framework policy below.
68. Pavements around the site are narrow in both directions. While I accept that the pavement network is not ideal or comfortable to walk along because of the proximity of heavy traffic, especially with a buggy or young children, I am satisfied that it is possible to walk into the village, to the nearby station and to access the wider footpath network safely. This includes walking along the main pavement into the village, or the alternative along Gillet's Lane onto Rock's Road which, although lacking in pavement and rather steep, is much quieter.
69. I also recognise that bins and other paraphernalia left on the narrow pavements sometimes make it necessary to walk in the road. However, such blockages should be short lived and the Highway Authority has powers to control such obstructions. Given these factors, I do not consider that this issue can weigh against the development.
70. It would not be possible for people with wheelchairs or mobility scooters to reach the core of the village without travelling on the road. Safe and suitable access to the nearby village would therefore not be provided for all users. In coming to this conclusion, I have had regard to decision APP/Z2260/W/24/3351846 (January 2025), in which the Inspector found that only being able to safely access a site by car does not provide safe and suitable access for all.
71. However, allowance must be made that the constraints are a product of the historical nature of the rural village, about which little can be done. In addition, safe and suitable access by car to the site would be secured, so such users would not be stranded. Although I have found conflict with the Framework policy, the harm is partly mitigated by these factors.
72. I observed several people cycling through the village. In most of these cases, the traffic was moving slowly and the cyclists moved at a similar, safe pace. I appreciate that the congestion and narrowness of the roads would make it unattractive for some users, including children, but I conclude that safe passage by bicycle to local service centres is a reasonable option for confident cyclists.
73. Cycling away from the village would be on a fast, rural, unlit lane and is unlikely to be an option for most people. However, not only is this in the opposite direction for the main service centres, it is also typical of a rural area and does not weigh against the development.
74. The development would deliver improved pedestrian warning signage, additional road markings, a raised table at the site access to slow traffic and the 20-mph zone would be extended to include the site entrance. The priority of vehicles would

also be changed to slow vehicles coming into East Malling. These improvements would mitigate some of the risks for all users of the highway and deliver modest wider benefits.

75. There will be cumulative effects from other new developments contributing additional traffic to the network. However, the Council and Highway Authority will have accounted for this as necessary in their acceptance of the proposal and there is nothing before me to suggest that the situation has significantly changed in the interim. Given that I am satisfied the additional traffic generated would be insignificant, I see no reason to come to a different conclusion.
76. The development would not cause a significant increase in traffic or risk to highway safety and Policy CP2 of the CS, which states that development should be compatible with the character and capacity of the highway network is met. Enhancements to the safety of the highway network would also be delivered, as required by this policy. This policy remains broadly consistent with the Framework and I therefore attribute it full weight.
77. However, the development would not deliver 'safe and suitable access' for 'all users' as required by paragraph 115 of the Framework because people with wheelchairs or mobility scooters would not be able to access the village without travelling on the road. This results from the nature of the historical village about which little can be done and, as safe and suitable vehicular access would be provided, I conclude that the resulting harm does not amount to the unacceptable impact on highway safety that should lead to refusal according to Paragraph 116 of the Framework.

The effect on ecology, including badgers

78. The site has been subject to a desktop study, surveys and updates, and detailed mapping of features relating to badgers has been undertaken. I am satisfied that the assessment meets policy and guidance, including Circular 06/2005¹ and is adequate for the purposes of informing a planning decision.
79. The proposals are consistent with Natural England's standing advice. I am satisfied that negative effects on badgers during construction would be avoided as far as possible through application of the approved Construction Environmental Management Plan and that the proposed mitigation measures are deliverable if disturbance is unavoidable. This is in addition to the requirement for a licence.
80. Badgers would be protected over the longer term through provision of a minimum 20 m landscaped buffer, fencing and deterrent planting around the relevant edges of the site. It has been demonstrated in principle that it is possible to install corridors across the site to enable badgers to move freely and prevent key locations becoming isolated. A badger friendly lighting scheme can be secured by a condition.
81. There would be a net loss of foraging for badgers from development of the site. This is partly offset by the inclusion of new landscaping across at least 25% of the site that would include species of foraging benefit, and through enhancement of the remaining orchard and development of open space. There also remains a range of nearby offsite foraging resources, and some potential for scavenging from

¹ Biodiversity and Geological Conservation – Statutory Obligations and their impact within the Planning System, 2005

household waste and gardens. I am satisfied that the loss of foraging would not be sufficient to cause badgers significant harm.

82. Traffic would generally be travelling at low speeds in and around the site where badgers are likely to cross roads. Traffic using the main road outside the site would be slower due to the proposed highway mitigation, and visibility immediately outside the site is good. I am satisfied that a significant increase in vehicular collisions with badgers is unlikely for these reasons.
83. I note that the Council withdrew its reason for refusal in relation to badgers subject to acceptance of a Grampian condition to obtain a licence from Natural England prior to works commencing. A licence from Natural England is a mandatory requirement for any works that are likely to disturb badgers and their setts based on an up-to-date survey. Natural England has not raised any objections and there is nothing to suggest that a licence would be withheld. The condition would therefore be a duplication of another regime and is not necessary.
84. I have noted concerns that the appellant does not own all the land used by the badgers and that this could affect whether a licence could be obtained. There would be no relevant works beyond the site boundary, so a licence for work on land outside the developer's control would not be necessary. I am satisfied that this is not a reason for a licence to be withheld.
85. My attention has been drawn to an appeal² that was dismissed because badgers could be affected. This was in the context that the ecological survey had not identified badgers, but the Council Ecologist subsequently identified a sett. The requirement in Circular 06/2005 to establish the presence of protected species had therefore not been met, which is not the case here.
86. Turning to other protected species and habitats, most hedgerows would be retained, and small losses would be compensated for by new hedgerow planting. Foraging and commuting sites for bats and birds would be safeguarded through new habitat provision, sensitive lighting and other mitigation measures. Stag beetles and Jersey Tiger Moth were also identified within or close to the site; the proposed landscape and environmental management plan incorporates measures to benefit these species.
87. I conclude that there is no conflict with Policies NE2 and NE3 of the 'Managing the environment' DPD, which require that any effects are mitigated, and that biodiversity of the borough is protected, conserved and enhanced. These policies remain broadly consistent with those in the Framework and I therefore attribute them full weight.

Living conditions of the occupants of No 51 Wateringbury Road

88. The house and garden at No 51 Wateringbury Road run parallel to the northern boundary of the site. The primary windows of the house face the road and rear garden; the side elevation of the house contains narrow windows looking towards the site. The rear garden is the main amenity space and, although separated by a low fence and occasional trees, is entirely visible from the appeal site.
89. It is proposed to plant dense landscaping of between approximately 9 m and 20 m depth between the northern appeal site boundary and the new access road,

² APP/J1860/W/23/3331962, June 2024

beyond which the new houses would be constructed. It is intended that the public would be prevented from accessing the landscape buffer by both the fencing and the density of the vegetation.

90. Once landscaping is established, the ground floor of the house and garden would be entirely screened by a significant depth of landscaping. Views of the top floor would remain possible. However, the house is approximately 12 m from the boundary and when added to the minimum 9 m buffer, this would be a distance of at least 21 m from the closest viewing point on the appeal site. In addition, although the exact location of the new houses is a reserved matter, they would necessarily be beyond the intervening access road, which would provide at least another 5 m separation. Even allowing for the slight height difference between the sites, given this distance and the proposed intervening landscaping, I am satisfied that there would be no harm to the privacy of the occupants of No 51.
91. Given the above distances and proposed landscaping, I do not consider that light intrusion or an unacceptable level of disturbance to the occupants of No 51 from the access road is likely, even allowing for a slight difference in level between the two sites. In addition, I am also satisfied that the configuration of the internal access road is flexible and can be designed to minimise light intrusion and disturbance, making harm to living conditions even less likely.
92. Disturbance to neighbours during construction would be temporary and can be minimised through conditions on the permission. The appellant has committed to temporary screening of No 51 until the vegetation has matured, which would also ensure protection of the privacy of the occupants during this period.
93. I have noted reference to the 'Tate Gallery Case' in which over half a million visitors a year were able to look directly into properties from a viewing platform. In this case, mitigation is possible and I am content that there would be no loss of privacy from the development.
94. I am advised that permitted development rights along the boundary of No 51 and the appeal site were removed to prevent the erection of a more substantial boundary treatment. It is open to the occupants of No 51 to apply for planning permission for such works and, even if this isn't forthcoming, the buffer provided on the development site would be sufficient to protect privacy and safeguard the occupants from nuisance.
95. For the reasons above, I have not found that there would be any harm to the living conditions of the occupants of No 51, including their disabled child. There is therefore no interference with the Right to Private and Family Life as protected under Article 8 of the European Convention on Human Rights. In coming to this conclusion, I have also had regard to the Public Sector Equality Duty set out in s149 of the Equality Act 2010'.
96. I conclude that the living conditions of the occupants of No 51 Wateringbury Road would not be harmed and there is no conflict with policies CP1 and CP24 of the CS, which require protection of residential amenity. Again, these policies remain broadly consistent with the policies in the Framework and I therefore attribute them full weight.

Other matters

Housing supply

97. The CS and DPD were adopted in 2007 and 2010 respectively. These sought to deliver the housing needs of the Borough for the period 2006-2021. The Housing Delivery Test requirement stood at 60% in 2023 and has not been met since at least 2020.
98. Since it is more than five years since adoption of the local plan, the housing requirement falls to be assessed using the 'standard method' in the Framework. Application of this results in a 5-year housing land supply requirement of 6,576 including a 20% buffer due to previous significant under delivery.
99. The Council and appellant agree that the housing land supply (HLS) is only 2.89 years and I see no reason to come to a different conclusion. This is equivalent to a shortfall of 2,771 houses measured against the December 2024 targets.
100. KTMRF challenged the need for housing. This was on the grounds that, among other things, the Council lacks an up-to-date housing need register, relies on 2014 projections, hasn't taken account of the low employment rates and empty houses in the area, and that calculations include migrant 're-settlement' figures.
101. I am satisfied that the housing requirement has been calculated using the standard method set out in the Framework and there is no substantial evidence to support an alternative assessment. In any event, the housing shortfall is so significant that even if small changes to the calculations could be justified, I am in no doubt that a shortfall would remain. In the context of the above, the provision of up to 52 houses is a substantial benefit of the scheme.
102. Based on the 2022 Council Housing Needs Survey there is a net requirement for 283 affordable homes each year. Since 2021/22 there has been a cumulative shortfall of about 582 affordable dwellings over about 3 years. I agree with the Council and appellant that there is a clearly identified need for affordable housing. Again, even if a small adjustment of the figures was justified by KTMRF's concerns, I am satisfied that a significant local need for affordable housing would remain. The development would deliver 40% affordable housing and this is therefore a significant benefit of the scheme.

Development in the countryside and East Malling

103. Policy CP14 restricts development in the countryside, which this would be, to a closed list of exemptions, none of which apply here. Notwithstanding this, the Council confirms that it is not relying on Policy CP14 as a matter weighing against the appeal. There is therefore conflict with this policy due to the location of the appeal site.
104. The appeal site is adjacent to East Malling village and in proximity to local facilities. The development would not be isolated, would respond to a local need for housing and could contribute towards the vitality of the village. The proposal would therefore meet the requirements of paragraphs 82, 83 and 84 of the Framework for development in the countryside.

Access to local facilities and alternative forms of transport

105. The appeal site is within walking distance of a pub, hairdresser, community centre and church. I observed that a café was in the process of opening, albeit I heard that other similar ventures had not been successful. There are schools on the other side of the village and larger retail facilities approximately 2km away, which are within cycling distance.
106. There is a regular, direct rail service from East Malling to London and Maidstone, in addition to other destinations. The station is approximately 300m away from the site entrance. It would not be accessible to all because of the number of steps to access the platform. However, it was a matter of agreement between the parties that the train operator provides a car service to alternative stations for people who cannot access the platforms at East Malling.
107. It was common ground that the current bus service is limited and the nearest stop some distance away. However, based on the above, I conclude that there would be alternative forms of transport to the car for all occupants of the appeal site.
108. The location therefore meets the requirements of Policy CP1 and CP2 of the CS in so far as they require that development is concentrated where a reasonable range of services is available, with good access to local service centres. I am also satisfied that sufficient transport infrastructure to serve the development would be available, in accordance with Policy CP25 and that the availability of public transport meets the requirement to reduce the need to travel in Policy CP1 of the CS. I am also satisfied that the location offers a genuine choice of transport modes in accordance with paragraph 110.

Other matters

109. Over 30% Biodiversity Net Gain (BNG) would be delivered, secured through a condition. As the application was made prior to the commencement date for mandatory delivery of BNG and is well beyond the 10% minimum required, this is a modest benefit of the scheme.
110. Approximately a third of the site would be managed as public open space. This includes retention of a substantial area of orchard and potentially a play area. This would be a small public benefit of the scheme. The benefit of open space is also recognised in paragraph 98 of the more recent Framework.
111. The built area of the site would be about 2.65 ha and this would result in the loss of Grade 2 agricultural land. Policy CP9 of the CS applies to allocation of land rather than to planning decision and does therefore not apply. However, the more recent policy in paragraph 187 of the Framework recognises the benefits of agricultural land and there would therefore be harm from this loss. The quantum of loss is small and I conclude that the harm is therefore limited.
112. It has been satisfactorily demonstrated that the development would have an insignificant effect on air quality, including on the Watlington Air Quality Management Area through a technical report prepared by a professional in the field. Although I have noted the general concerns raised on this matter, I have no evidence on which to come to a different conclusion.
113. I note the concerns raised by KTMRF that permission for this development would make other development on this side of the village more likely and that development appears to them to be part of a 'larger, undeclared, phased

expansion strategy'. Each proposal must be judged on its own merits in line with local and national policies. On a similar theme, criticism of the Council's procedures is not for me to consider as part of this decision, which is based purely on the merits of the case.

114. There is no suggestion from any statutory undertakers that sufficient local infrastructure, such as schools and doctors, cannot be provided. I address the infrastructure contributions secured by the s106 below.

115. The alleged damage to badger setts in 2022 is also not a matter for this appeal.

Conditions

116. I have considered the suggested conditions taking into account the discussions at the inquiry, the policies in the Framework and the advice given in the Planning Practice Guidance. The appellant has given written agreement to all the conditions. I impose most of them, amending some wording in the interests of conciseness, precision and enforceability. The numbers below relate to the corresponding condition in the schedule attached to this decision.

117. Conditions [1-3] controlling time limits and the provision of details on reserved matters are necessary because the application made is for outline permission. I have imposed condition [4] specifying the approved plans for reasons of certainty.

118. Conditions [5-7] control the gradient, width and visibility splays of the access road, and require highway improvements, including extension of the existing raised table and relocation of signage. These are necessary for the purposes of maintaining highway safety.

119. Condition [8] requires an archaeological scheme of investigation secures investigation and recording of the site prior to commencement. This is necessary because the potential for surviving below-ground archaeological remains has been identified in relation to, amongst other things, a World War II crash site, and late Prehistoric, Roman and post-medieval agricultural activity,

120. A Construction Environmental Management Plan is required by condition [9]. This is necessary in the interests of general amenity, highway safety and to protect the environment. Condition [10] is to ensure protection of retained trees during construction. I have amended the wording of this condition to require adherence to the already submitted Tree Protection Plan and reference to the draft Arboricultural Method Statement. Condition [11] requires that any unexpected contamination encountered is appropriately dealt with.

121. Conditions [12 - 14] are necessary to ensure that surface and foul water are appropriately disposed of. I have amended the wording to include specific reference to the spring at Gillet's Hole in the interests of precision and certainty, and to reflect the discussions at the inquiry. Condition [15] requires details of lighting for the purpose of protecting nature and the living conditions of neighbours.

122. Condition [16] is necessary to clarify what must be submitted at the reserved matters stage in relation to landscape and ecological management. Amongst other things, it secures BNG of 30%, details of the community orchard and protection for badgers. Condition [17] then requires that proposed buffer zones are laid out in accordance with the landscape and ecological management plan. Together, these should retain connectivity for wildlife.

123. Condition [18] is required to ensure that the living conditions of the occupants of No 51 Wateringbury Road are protected by an appropriately landscaped buffer and maintenance of this.
124. Condition [19] clarifies the details of the requirement for details of energy efficiency measures to be submitted at the reserved matters stage. This is in the interests of achieving sustainable development in respect of climate change in accordance with local policies.
125. I have not included a condition requiring finished ground floor levels of the buildings, road and footpaths because these are reserved matters. I note that this was included to address concerns from residents, but this opportunity would be better afforded to them at the reserved matters stage. I also do not consider it effective for this purpose given that final elevations are necessarily going to be influenced by the other reserved matters.
126. I have also not imposed conditions requiring an updated badger survey, details of mitigation or prevention of work without a licence from Natural England. This is because it would be an offence to undertake any work that would disturb badgers in the absence of this and the licence process will require this information. There is no need for me to impose a condition that duplicates other regulatory regimes.

Planning obligation

127. The signed s106 secures 40% affordable housing, details of how these should be broken down by tenure and controls their release.
128. Contributions would include community learning and skills, healthcare, integrated children's services, libraries, secondary education, secondary education land, social care, Special Educational Needs and Disabilities (SEND), waste, a children's and young person's play area, off-site open space and primary education.
129. None of these contributions are in dispute between the main parties and the Council has provided evidence, including detailed Community Infrastructure Levy (CIL) compliance statements, that justify the requirements and amounts sought.
130. It is clear from the submitted evidence that all the provisions and contributions set out within the planning agreement are necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to the development proposed. They therefore satisfy the tests within Regulation 122 (2) of the Community Infrastructure Levy 2019 and paragraph 57 of the Framework, and I have taken them into consideration when reaching my decision.

Planning balance

131. There has been significant under delivery of housing across the borough in recent years, including meeting only 60% of the requirement in 2023, which is the latest available measure. There is now a significant shortfall in the 5-year HLS, which stands at approximately 2.89 years. Provision of up to 52 houses is therefore a matter of substantial weight in favour of the development.

132. There is also a pressing need for affordable housing in the borough given the sizeable cumulative shortfall over recent years. Delivery of 40% affordable housing is therefore a benefit of the scheme to which I also attribute substantial weight.
133. Spatial policies in the local plan were derived on the basis that approximately 425 dwellings per annum would be required, which is a very different proposition to the current housing requirement of 1,315 dwellings per annum. In addition to being out-of-date, the plan is also inconsistent with the Framework in terms of boosting the supply of housing. For these reasons, I give the spatially restrictive aspects of policies, including CP6 and CP14 very little weight. For the reasons above, I have not identified that there would be conflict with policies in the Framework that control development in the countryside or the village.
134. The significance of nearby listed buildings would be preserved. However, there would be a low level of less than substantial harm to the setting of East Malling CA, in conflict with local policies. As directed by the Framework, great weight should be given to an asset's conservation. Given the low level of less than substantial harm, I conclude that when weighed against the public benefits of the scheme, as required by paragraph 215 of the Framework, this is a matter of moderate weight against the scheme.
135. The development would cause harm to the character and appearance of the landscape at a local scale. I consider this to be a moderate degree of harm initially, reducing to a small degree after landscaping has matured. There would also be a small degree of harm to the setting of East Malling village, separate to that assessed in the CA. There is therefore conflict with Policies CP1 and CP6 in so far as they protect the quality of the landscape. These policies remain broadly consistent with those in the Framework and I therefore attribute them full weight in this respect. The loss of a small quantum of Grade 2 agricultural land is a matter of limited adverse weight.
136. The development would not cause a material increase in traffic or risk to highway safety and is consistent with local policies, to which I attribute full weight. However, the development would not fully deliver 'safe and suitable access' for 'all users' as required by paragraph 115 of the Framework because people with wheelchairs or mobility scooters would not be able to access the village without travelling on the road. For the reasons above, including the unavoidable historical nature of the village, the acceptable access for most users, the good vehicular access and a scheme to assist access to other stations where needed, I conclude that the harm from this to be of limited adverse weight.
137. The delivery of 30% BNG is a matter of small positive weight, as is the provision of public open space on the site, which is supported by paragraph 98 of the Framework, and the highway improvements that would be of wider public benefit. Paragraph 73 of the Framework recognises the important contribution from small to medium enterprise housebuilders to deliver housing relatively quickly. In addition to a commitment to submitting the reserved matters within 18 months to expedite the scheme, this is a matter of small positive weight. Contribution to the local economy from construction and investment in the area by future residents is of small positive weight, consistent with the economic objectives in paragraph 8 of the Framework.

138. I have found that the proposal meets both local and national policies in respect of availability of alternative forms of transport, protection of ecology and the environment. I have not found that there would be harm to the living conditions of the occupants of No 51 Watlington Road.
139. To conclude on the planning balance, I find that the proposal complies with numerous local policies, including through provision of affordable housing (CP15), the availability of sustainable transport and proximity to the local services (Policies CP1 and CP2), Policies NE2 and NE3 for the protection of biodiversity and in mitigation of development impacts (CP25), Policy CP24 insofar as it requires protection of residential amenity, in addition to policies for protection of air quality, water supply and provision of open space.
140. A history of poor housing delivery against local requirements in addition to the very low 5-year housing land supply mean that any conflict with spatial aspects of Policies CP1, CP6 and CP14 attracts very limited weight. There remains conflict with Policies CP1, CP6 and SQ1 in regard to the setting of the CA and local landscape, but these harms are modest and do not outweigh the benefits delivered by compliance with the numerous policies above.
141. The proposal therefore complies with the development plan when read as a whole. There are no material considerations, including the small additional harms identified from limited local accessibility for some users and loss of agricultural land when measured against policies in the Framework, that would lead me to a different conclusion.

Conclusion

142. I conclude that the appeal should be allowed.

B Davies

INSPECTOR

APPEARANCES AT THE INQUIRY

FOR THE APPELLANT:

Sasha White KC of Landmark Chambers

Lucy Wilford, Director at DHA Planning

John Wilde, Director of Director of Charles & Associates Consulting Engineers Ltd

Richard Hammond, Associate Landscape Architect with EDLA

Christopher Griffiths, Director at HCUK Group

Alistair Baxter, Senior Director of Aspect Ecology

FOR THE LOCAL PLANNING AUTHORITY:

Celina Colquhoun of Essex Chambers, Barrister

Alison Hutchinson, Partner in Hutchinsons Planning & Development Consultants

Jason Clemons, Executive Director of Vitruvius Heritage Ltd.

FOR RADIF:

Frances Saunders

Ruth Calderwood, West Kent Badger Group

Natasha Allen

Jason Allen

Marc Page

Steve Brett

Andrew Rudge

FOR KTMRF:

Katherine Moore

Sean Turner

INTERESTED PARTIES:

David Thornewell, Chairman, East Malling and Larkfield Parish Council

Mark Crowcroft, occupant of Huntley Cottage

N and J Allan, occupants of No 51 Watringbury Road

GC Kenward & F Kenward, occupants of Belvidere Farm

Yvonne Moss, Local resident

Andrew Stephenson, Local resident

Anne Herring, Local resident

Mark Weber, Local resident

Peter Coulling, Chairman, Teston Parish Council

Stephen Lockett, Local resident

Sharon Page, Local resident

Martin Bagley, Local resident

Steve Brett, Local resident

Fiona Reynolds, Local resident

Liz Simpson, Local resident

Christine Woodger, Local resident

Nick Ashbee, Local resident

Rachel Muller, Local resident

Nick Ashbee, Local resident

Roger Roud, Councillor, East Malling, West Malling and Offham

Trudy Dean, Councillor, East Malling, West Malling and Offham

DOCUMENTS SUBMITTED AT THE INQUIRY

ID 1	Appellant's Opening Submissions
ID 2	TMBC Opening Submissions
ID 3	KTMRF Opening Submissions
ID 4	RADIF Opening Submissions
ID 5	Mr David Thornewell – East Malling and Larkfield Parish Council Statement
ID 6	Appeal decision APP/Z2260/W/24/3351846 - Land off Foxborough Lane, Minster, CT12 4AH (January 2025)
ID 7	Note on Access Drawing Subject to Approval – Charles & Associates
ID 8	RADIF Annex 173_TMBC Fol disclosure on KCC Ecologist
ID 9	TMBC Counsel Statutory Consultation Requirements Note
ID 10	Stephen Lockett Statement
ID 11	Yvonne Moss Statement
ID 12	Mr Mark Page Evidence
ID 13	Appeal decision APP/J1860/W/23/3331962- Land north of Picken End, Hanley Swan (June 2024)
ID 14	Updated Parameter Plan – 21.094 – 50 Rev C
ID 15	Ms Helen Grant MP Letter
ID 16	Chronology of Judgments Relating to Heritage Assets
ID 17	Mr Rudge Heritage Evidence Statement
ID 18	Additional representation Ms Brazier Email
ID 19	Surrounding Developments Map and associated table
ID 20	Updated CIL Schedule dated 01/10/2025
ID 21	Appeal decision APP/R3325/A/12/2176355 – Land at Mitchell Gardens
ID 22	TMBC Closing Submission
ID 23	RADIF Closing Submission
ID 24	KTMRF Closing Submission
ID 25	Appellant Closing Submission
ID 26a	Agreed Draft Conditions – Tracked Changed version
ID 26b	Agreed Draft Conditions – Clean version

SCHEDULE OF PLANNING CONDITIONS

- 1) The development hereby permitted shall be begun either before the expiration of 3 years from the date of this permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved of the development, whichever is the later.
- 2) Application for approval of the reserved matters of the development shall be made to the local planning authority not later than 18 months from the date of this permission.
- 3) Before any development takes place, details of the appearance, landscaping, layout and scale ("the reserved matters") shall be submitted to and approved in writing by the local planning authority and the development shall be carried out as approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site Location Plan 21.094-01, dated July 2022
 - Access Proposals 16082-H-01 Rev P6, dated 22 May 2024
 - Improvement Works to Watringbury Road 16082-H-04 Rev P2, dated 08 November 2022
 - Improvement Works to Watringbury Road 16082-H-05 Rev P2, dated 08 November 2022
 - Proposed Parameter Plan 21.094-50 Rev C, dated July 2022
- 5) The access road from Watringbury Road shall be constructed no steeper than 1 in 10 for the first 1.5 metres from the highway boundary and no steeper than 1 in 8 thereafter.
- 6) The access road shall not be used until the visibility splays shown on plan: 'Access Proposals 16082-H-01 Rev P6, dated 22 May 2024' have been provided with no obstructions over 0.6 metres above carriageway level within the splays. The visibility splay so created shall be retained at all times thereafter.
- 7) No part of the development shall be occupied prior to the completion of the highways works shown on plan: 'Access Proposals 16082-H-01 Rev P6, Dated 22 May 2024'.
- 8) No development shall take place until:
 - a) an archaeological Written Scheme of Investigation (WSI) been submitted to and approved in writing by the local planning authority
 - b) any necessary safeguarding measures to ensure the preservation in situ of important archaeological remains and/or further archaeological investigation and recording identified in the WSI have been undertaken in accordance with a specification and timetable that shall first have been submitted to and approved in writing by the local planning authority.

The development should be carried out in full accordance with the approved details within the WSI.

- 9) Prior to the commencement of development, including any advance site preparation and groundworks, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the local planning authority. The approved CEMP shall be adhered to at all times through the construction of the development. The CEMP shall provide for the following:
- a) hours of construction work including deliveries
 - b) suitable access and turning arrangements to the site in connection with the construction of the development
 - c) the parking of vehicles of site operatives and visitors
 - d) loading and unloading of plant and materials
 - e) any temporary traffic management/signage
 - f) site office locations and storage of plant and materials used in constructing the development
 - g) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - h) a Construction Dust Management Plan including wheel washing measures to control the emission of dust and dirt during construction including on the public highway
 - i) mechanisms to deal with environmental impacts such as noise and vibration, air quality and dust, light and odour during site preparation, groundwork and construction
 - j) details of any proposed piling operations, including justification for the proposed piling strategy, a vibration impact assessment and proposed control and mitigation measures
 - k) a scheme for recycling/disposing of waste resulting from construction works
 - l) routing and timing of construction traffic, to minimise impact on the local community
 - m) details of a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and to prevent pollution of groundwaters
 - n) Sensitive lighting management plan to limit light spillage over the garden area of no. 51 Watlington Road

The CEMP shall also provide details in relation to biodiversity and shall include the following:

- o) ecological risk assessment of construction activities,
- p) identification of "biodiversity protection zones" demonstrated on maps,
- q) practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements)
- r) the location and timing of sensitive works to avoid harm to biodiversity features
- s) the times during construction when specialist ecologists need to be present on site to oversee works
- t) details of the role and responsibilities on site of an Ecological Clerk of Works or similarly competent person and lines of communication

- u) details for the use of protective fences, exclusion barriers and warning signs.
- 10) No site clearance, preparatory work or development shall take place until the scheme for the Arboricultural Method Statement in section 8 of the Arboricultural Report (GRS/S/TCP/AIP/TPP/AIA/228/21, July 2022) has been finalised and approved in writing by the local planning authority. Works must be undertaken in accordance with the Arboricultural Method Statement and associated Tree Protection Plan.
- 11) Where unacceptable risks from previously unidentified contamination are identified, works on that part of the site shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The remediation strategy shall be implemented as approved.
- 12) No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the local planning authority. This should include consideration of any potential effect on the spring at Gillet's Hole and, if necessary, avoidance or mitigation of this. The detailed drainage scheme shall be based upon the Flood Risk Assessment dated June 2022 prepared by DHA and shall include details of any proposed implementation schedule.

The drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100-year storm) can be accommodated and disposed of within the site without increase to flood risk on or off-site.

The drainage scheme shall also demonstrate (with reference to published guidance):

- how silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details.

- 13) No dwelling (or phase within an agreed implementation schedule) shall be occupied until a Verification Report, pertaining to the surface water drainage system approved under Condition 12 and prepared by a suitably competent person, has been submitted to and approved by the local planning authority. The Verification Report shall demonstrate that the constructed drainage system is consistent with that which was approved. The Report shall contain

information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance log for the sustainable drainage scheme as constructed.

- 14) No development shall commence until a strategy to deal with foul water drainage is submitted to, and approved in writing by, the local planning authority. Thereafter the development shall be carried out in accordance with the approved details, timetable and programme.
- 15) Prior to the installation of lighting, other than in private gardens, a report detailing the external lighting scheme and how this protect wildlife, habitats and the residential amenity of No 51 Wateringbury Road, has been submitted to and approved in writing by the local planning authority. The report shall include the following information:
 - a) A layout plan with beam orientation
 - b) A schedule of equipment
 - c) Measures to avoid glare
 - d) An isolux contour map showing light spillage to 1 lux.
 - e) The lighting scheme shall be implemented in accordance with the approved details.
- 16) The first reserved matters application shall include a site wide Landscape and Ecological Management Plan (LEMP). The content of the LEMP will be based on the Defra Biodiversity Net-Gain metric calculations and include the following:
 - a) Full Defra biodiversity net-gain calculations, demonstrating a 30% net gain;
 - b) Description and evaluation of features to be created and managed, including for stag beetle and to benefit foraging badgers and larval food plants for Jersey Tiger moth;
 - c) Details of the community orchard;
 - d) Ecological trends and constraints on site that might influence management;
 - e) Scheme to include protective fencing for badgers;
 - f) Aims and objectives of management measures;
 - g) Appropriate management prescriptions for achieving aims and objectives;
 - h) Preparation of a work schedule;
 - i) Details of the body or organisation responsible for implementation of the plan;
 - j) Ongoing monitoring and remedial/contingency measures triggered by the monitoring to ensure that conservation aims and objectives are met.
 - k) Programme for implementation, including how contingencies and /or remedial action will be identified, agreed and implemented to ensure that the development delivers the fully functioning objectives of the approved scheme

The LEMP shall be implemented as approved

- 17) Prior to the first occupation of the residential development, the ecological/landscape buffer zone illustrated on the 'Proposed Parameter Plan 21.094-50 Rev C', Dated July 2022' shall be defined and clearly laid out for the intended purpose of creating an ecological/landscape buffer zone. The final appearance of the buffer shall be subject to the written approval by the local planning authority in accordance with the LEMP subject of condition 16 of this outline planning approval.
- 18) Within 6 months of the decision notice a scheme for the landscape buffer (not being less than 9m wide) along the northern boundary of the Site adjacent to No. 51 Wateringbury Road, as shown on the 'Proposed Parameter Plan 21.094-50 Rev C', Dated July 2022' shall be submitted to the local planning authority for approval in writing. Details to be submitted shall include:
- a) Means of enclosure including details of any permanent or temporary (both hard and soft) boundary treatments;
 - b) A soft landscaping specification, including for more established plants for early visual screening;
 - c) Details of plant species and stock size,
 - d) Programme of implementation which will provide for the early establishment of the soft landscaping during the first available planting season; and
 - e) Details of management including measures to prevent public access in perpetuity.
- The works shall thereafter be carried out in accordance with the approved details.
- 19) Details submitted pursuant to condition 3 (Reserved Matters) shall be accompanied by a Sustainability Statement, demonstrating the energy efficiency measures to be incorporated in accordance with the principles set out in the Low Carbon Energy and Sustainability Statement, July 2022. The development will thereafter be carried out in accordance with the approved details.