



Statement of Case

Outline application with some matters reserved (access only sought) for the removal of 2 former agricultural sheds and erection of up to 117no. dwellings and associated infrastructure including partial footways on Albion Road

at Land East of Albion Road and North of Copper Lane, Marden

Local Authority Ref: 23/504068/OUT

Appeal Ref: TBC

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Marden

Statement of Case on Behalf of
B.Yond Homes Ltd
(Formerly known as Rydon Homes Ltd)

June 2024

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1. Introduction

1.1 B.Yond Homes (formerly known as Rydon Homes Ltd) is a well-established firm of house-builders, which has been building high quality housing, mainly in the Kent, Surrey and Sussex areas for 40 years. Its main office is in Forest Row, East Sussex. In addition to constructing housing for the private market, the Group also has particular expertise through both its Homes and Construction companies in the provision of affordable housing.

1.2 This Statement of Case ("the SoC") is written by DMH Stallard LLP on behalf of B.Yond Homes ("the Appellants") in support of a Planning Appeal that has been made against the decision of Maidstone Borough Council ("the Council") to refuse the planning application 23/504068/OUT ("the Application"). The Application sought permission for:

"Outline application with some matters reserved (access only sought) for the removal of 2 former agricultural sheds and erection of up to 117no. dwellings and associated infrastructure including partial footways on Albion Road."

1.3 The decision notice and delegated report listed the following plans and documents that the decision was based upon;

Description:	Drawing No. or Document Ref:	Received Date:
Site Location Plan	22037 – S101C	14/09/2023
Existing Block Plan	1035-0A-100	14/09/2023
Existing Building Floor Plan and Elevations	1035-0A-101	14/09/2023
Coloured Site Layout	22037 - SK25J	05/09/2023
Building Heights Layout	22037 – SK26C	05/09/2023
Policy Area Calculations	22037 – SK12F	05/09/2023
Site Survey 1 – 10	CLM/2107/1 – 10	14/09/2023
Proposed Pedestrian/Cycle/Emergency Access	ITB15098-GA-026	05/09/2023
Proposed Site Access Arrangements	ITB15098-GA-053	05/09/2023

Tree Retention/Removal Plan	22037-S101C	05/09/2023
Arboricultural Report Arboricultural Implications Assessment		05/09/2023
Acoustic Report Noise Impact Assessment		05/09/2023
Affordable Housing Statement		05/09/2023
Ecological Assessment		03/11/2023
Biodiversity Survey/Report Biodiversity Net Gain Assessment		05/09/2023
Design and Access Statement		05/09/2023
Energy Statement		05/09/2023
Flood Risk Assessment 1 of 2		05/09/2023
Flood Risk Assessment 2 of 2		05/09/2023
Heritage Statement		05/09/2023
Planning Statement		05/09/2023
Landscape and Visual Impact Assessment		05/09/2023
LVIA Figure 1 – The Site and Topography		05/09/2023
LVIA Figure 2 – Landscape-related designations and Public Rights of Way		05/09/2023
LVIA Figure 3 – The Site, Landscape Features and Immediate Landscape Character A		05/09/2023
LVIA Figure 4 – Photographs of the Site and Immediate Context		05/09/2023
LVIA Figure 5 – Zone of Visual Influence and Viewpoint Locations		05/09/2023
LVIA Figure 6.1-6.5 – Viewpoint Photographs		05/09/2023

LVIA Figure 6.7-7 – Viewpoint Photographs and Indicative Site Layout		05/09/2023
Mineral Resource Assessment		05/09/2023
Outline Landscape and Ecological Management Plan		05/09/2023
Transport Assessment		05/09/2023
Transport Assessment Appendices 1 of 3		05/09/2023
Transport Assessment Appendices 2 of 3		05/09/2023
Transport Assessment Appendices 3 of 3		05/09/2023
Travel Plan		05/09/2023

1.4 The Planning Application was refused on the 22nd December 2023 for the following reasons:

- 1. The application site lies in the countryside and residential development of this scale does not accord with the adopted Maidstone Borough Local Plan's Spatial Strategy policy SS1 which directs residential development to defined built areas and site allocations. It would erode the sense of tranquillity, resulting in an urbanising and visually prominent form of development, out of character with the rural locality, visually harmful to the setting of Marden in its rural context on approach from the south and therefore significantly harmful to the character and appearance of the countryside being the two primary tests of "harm" in adopted policy SP17. The Council has in excess of 5 years housing land supply and positive housing delivery rates. There are no exceptional circumstances that would justify departing from this strategy with the resulting harm to the character and appearance of the countryside and the proposals are therefore contrary to Policies SS1 and SP17 of the Maidstone Borough Local Plan 2017 and Marden Neighbourhood Plan policies BE1 and NE3.*
- 2. The application site contributes to the landscape character of the Staplehurst Low Weald which is that of low lying gently undulating clay landscape of small fields with orchards, pasture, ponds and watercourses. The indicative sizes and number of dwellings (117 including some 2.5 storey dwellings) and associated hardstanding for access, parking and*

turning will result in a layout and siting of built development of a suburban form extending into the rural landscape, significantly harming its character. The indicative layout shows cramped overdevelopment along the access road entrance and in the NE corner and a proximity of dwellings to the southern and western boundaries that cannot be effectively screened by planting due in part to the intervening ponds and proposed attenuation basin. The harmful development would be particularly visually prominent due to site topography and the site being elevated above Thorn Road and Copper Lane with limited scope for adequate landscape buffers/screening at the boundaries and within the site. There is a significant loss of the orchard with only 2 very small areas being retained, contrary to conserving what is a defining land use important to the landscape character of the Staplehurst Low Weald. There will also be significant harm from external lighting and additional engineering to form the access onto Albion Road, a rural lane. The development would erode openness and cause unacceptable harm to the character and appearance of the countryside. The development is contrary to policies SS1, SP17, DM1, DM8 and DM30 of the Maidstone Borough Local Plan and Marden Neighbourhood Plan policies BE1 and NE3.

- 3. Due to the absence of safe pedestrian and cycle access on Albion Road to access the services within the village of Marden, the residents are likely to be reliant on the private motor vehicle to travel for access to day-to-day needs. This would be contrary to the aims of sustainable development as set out in Policies SS1, SP17, SP23 and DM1 of the Maidstone Borough Local Plan, policy In2 of the Marden Neighbourhood Plan, the National Planning Policy Framework and the objectives of Active Travel England to secure good walking, wheeling and cycling infrastructure.*
- 4. The proposed access arrangement shows that refuse freighters are not able to safely access or egress from the site without overrunning adjacent traffic lanes. The Transport Assessment is deficient in that is no Road Safety Audit, there is inadequate raw data for traffic survey, visibility splays need recalculation and trip generation data needs sensitivity testing. The development is contrary to the NPPF which requires safe and suitable access to be achieved for all users and to policies DM1 and DM21 of the Maidstone Borough Local Plan 2017 and policy In3 of the Marden Neighbourhood Plan.*
- 5. The ecology appraisal is deficient in terms of provision of habitat and/or mitigation for badgers, breeding birds, turtle doves, great crested newts and reptiles and in the assessment of the ecological value of the orchard in situ. The applicant has not taken account of local information provided by Kent Wildlife Trust and Marden Wildlife Group nor engaged with those groups. Therefore, it is not possible to confirm compliance with statutory species protection legislation, contrary to paragraph 180 of the NPPF, policy DM3 of the Maidstone Borough Local Plan 2017 and policy NE4 of the Marden Neighbourhood Plan.*

6. *There is an inadequate amount of natural and semi-natural open space both in quantum, and public useability because of the indicative configuration and siting relative to the housing, the attenuation basin has not been demonstrated to be a wet pond and ecological habitat/mitigation areas would not be publicly accessible. Therefore, the proposal does not comply with policy DM19 of the Maidstone Borough Local Plan 2017 or policy A2 of the Marden Neighbourhood Plan.*

7. *The development will result in significant additional pressure on Kent County Council infrastructure including primary and secondary education that is unlikely to be fully mitigated in the absence of a s106 legal agreement providing supplementary financial contributions to the Local Education Authority. This is contrary to policy ID1 of the Maidstone Borough Local Plan 2017 and policy A3 of the Marden Neighbourhood Plan.*

1.5 Therefore, given the reasons for refusal, the matters considered to be of principle importance in respect of this Appeal are considered to be;

- Principle and location of the development.
- Landscape - specifically the impact of the development on the countryside character of the area.
- Access issues – lack of safe pedestrian and cycle access on Albion Road and uncertainty over safe access or egress of refuse freighters to the site.
- Ecology & Biodiversity –
 - uncertainty regarding the impact of the proposed development on protected species, specifically the provision of habitat and/or mitigation for badgers, breeding birds, turtle doves, Great Crested Newts and Reptiles.
- Lack of sufficient amount in terms of quantum and public usability of the proposed natural and semi-natural open space.
- S106 – A completed S106 Legal Agreement was not submitted with the application.

1.6 This document provides the Appellant's SoC against the Council's decision to refuse this Planning Application. This SoC should be read in conjunction with the documentation submitted with the Planning Application. A Core Documents list will be completed in discussion with the LPA and submitted in advance of drafting proofs of evidence.

2. Description of the Site

- 2.1 The appeal Site lies broadly located on the southeast side of the village of Marden. It comprises a large, broadly rectangular shaped site measuring approximately 6 hectares in area. The Site borders Copper Lane to the south and the west of the Site shares a short frontage with Albion Road. Located along the northern boundary of the Site is the recently completed residential development of Russet Grove, which is characterised by more modern housing development. To the east of the Site are open fields, defined by further agricultural land, with sporadic farm houses.
- 2.2 The appeal Site is outside of but adjoins the settlement boundary of Marden along the northern boundary. The northern boundary comprises of the recently completed housing development of Russet Grove. The appeal site gently slopes upwards and as such the residential development of Russel Grove is generally on higher ground than the application Site.
- 2.3 The Site currently comprises of agricultural land. The majority of the site comprises of a commercial plum and apple orchard with an existing vehicular field access onto Copper Lane. The gradient of the orchard land declines from the northern to southern boundary along Copper Lane. A number of ponds are located within the southern part of the site, in proximity to the southern site boundary with Copper Lane. The smaller western land parcel fronts onto Albion Road, with an existing field access. The smaller western land parcel fronting Albion Road is heavily overgrown with bramble/shrub, with two former mushroom-growing agricultural sheds located within the centre of the site. The existing boundaries of both the orchard part of the site and the smaller parcel fronting Albion Road, are well defined with established mature trees and hedgerows.
- 2.4 The appeal Site is currently accessible for vehicles from Copper Lane. An access point is to be retained as an emergency vehicular access and shared with pedestrian/cycle access as part of the proposal. The main vehicular access to the Site will be via Albion Road. The proposed access point on Albion Road has been located to the south of the residential property known as Howlands, which is within the same landownership. Full details of the proposed vehicular/pedestrian access to the Site from Albion Road and Copper Lane, are submitted for approval.
- 2.5 The appeal Site is within a reasonable walking distance to the centre of the village – the High Street. Little Marden Farm Shop and Country Store at the B2079 / High Street / Albion Road junction is approximately 350m from the nearest proposed home and around 720m from the furthest home. There are additional amenities in Marden including a primary school (circa 1,190m from the nearest proposed dwelling and 1,560m from the furthest property) –a church, a pharmacy, a convenience store and a number of pubs, restaurants,

and shops all of which are within a reasonable walking and cycling distance of the appeal Site.

- 2.6 The appeal Site also benefits from being well located to public transport links.
- 2.7 The closest bus stops to the site are located on Plain Road (near the Albion Road junction), around 300m from the centre of the site. Further bus stops can be accessed around 700m from the site on the B2079 / High Street which can be accessed via the new footway proposed along Albion Road, which provides a link to the existing footway network at Seymour Drive. Marden is served by bus services providing connections to Maidstone and stops between.
- 2.8 Marden has a rail station which is located approximately 1km to the north west of the site. Marden rail station is situated on the South East Main Line, which provides regular services to London, Tonbridge and Ashford, and the various stations between these destinations.
- 2.9 There are no Public Rights of Way or Bridleways within the Site itself, but there are a number of public footpaths in the vicinity of the Site. The application proposes 2m wide footways on both sides of the carriageway within the Site and to the bellmouth with Albion Road. The southern footway of the proposed bellmouth stops opposite Public Footpath KM281 and a proposed dropped kerb crossing will be provided to facilitate pedestrian access to the west side of Albion Road to access Public Footpath KM281.
- 2.10 The appeal scheme proposes improvements to Public Footpath KM281, which provides a convenient and safe route to the majority of amenities in Marden village centre. Additional improvements are proposed to pedestrian routes from the Site to village amenities.
- 2.11 The roads in the local area are considered suitable for cycling. The Transport Assessment which accompanied the appeal scheme confirms that Albion Road, in the vicinity of the site frontage' does currently operates safely as a shared surface and mixed traffic environment for both pedestrians and cyclists. Therefore, there are strong opportunities to encourage walking and cycling.
- 2.12 The appeal Site is not within any protected landscapes (such as AONB or National Park). The High Weald AONB is located approximately 4km from the application Site.
- 2.13 The appeal Site is situated wholly within Flood Zone 1 and as such is considered at low risk of flooding from fluvial and tidal sources. The site is not considered to be a significant risk of flooding from surface water, although mitigations are required, with more details of the proposed surface water drainage strategy provided in the accompanying Flood Risk Assessment.

- 2.14 There are no Listed Buildings within the Site nor is it located within a Conservation Area. There are no Scheduled Monuments or Historic Battlefields which will be impacted by the proposed development. There are a number of Listed Buildings within the wider area, and the impact of the proposal upon the character and setting of these buildings was assessed and the appeal scheme was supported by a Heritage Statement.

3. Planning History of the Site

- 3.1 There is no relevant planning history for the appeal Site as identified on the Council's online portal. However, the appeal Site was promoted to the Council in connection with the Maidstone Local Plan Review process.

Maidstone Local Plan Review (2024)

- 3.2 The Maidstone Local Plan Review (MLPR) document was adopted in March 2024, this document sets out the policies and plans to guide future development to 2038. The appeal Site is allocated in the MLPR for housing development in under **Policy LPRSA295** – Land at Copper Lane and Albion Road, Marden. This policy allocates the site for the development of approximately 113 dwellings, the policy sets out general principles for the design and layout of the development; landscape and ecology; access; highways and transportation; open space, and utilities infrastructure.

Relevant other applications

- 3.3 Whilst there is no recent planning history on this Site, there have been previous planning applications in the vicinity of the Site. These primarily concern the residential development located along the northern boundary of the application Site at Seymour Drive (formerly the Marden Cricket and Hockey Club and subsequently built out for 124 new homes, under the name 'Russet Grove'). The planning application was approved in August 2018 under reference 17/504754/FULL. The site 'Russet Grove' was allocated for residential development in The Maidstone Borough Local Plan (2017).

Pre-application discussions

- 3.4 In Summer 2022, an initial pre-application advice meeting took place with Planning Officers at Maidstone Borough Council. This request was made on the basis of a scheme for 130 dwellings within the area identified by the draft Site allocation in the Reg 17 version of the MBLP. The meeting discussed the site constraints and opportunities.
- 3.5 A full written response was received mid-August 2022. The pre-application advice was broadly supportive of the principle of development on site, through a plan led process. However, it was considered that some improvements to the layout should be made. The informal Planning Officer feedback received included a suggested reduction in the number of dwellings, and a loosening of the scale and relationship of the dwellings to the south with the proposed open space.
- 3.6 The appellant took on board the comments made by the Planning Officer and amended the scheme accordingly. The number of units proposed has been reduced from 130 new homes to 117 new homes. The scale and height of

dwellings in the southern part of the site have been reduced with single and 1 & ½-storey dwellings proposed.

4. The Scheme

- 4.1 Full details of the scheme are set out within the planning statement which was submitted in support of the appeal proposal.
- 4.2 The appeal scheme is for outline planning consent for the erection of up to 117 no. residential dwellings on the Site, including 40% affordable housing (47 dwellings), the provision of formal and informal public open space, with a new formal vehicular access to Albion Road and an emergency (pedestrian/cycle access) onto Copper Lane. The appeal schemes seeks outline planning consent, with determination of the means of access only to both Albion Road and Copper Lane. All other matters were reserved for subsequent approval.
- 4.3 Whilst the appeal proposal is submitted in outline with layout a reserved matter for later approval, the submitted coloured site layout plan demonstrates how the Site can accommodate 117 homes along with significant areas of additional public open space and is considered to be in general accordance with the Site Allocation policy LPRSA295 in the MBLP.
- 4.4 The appeal scheme is supported by an indicative layout plan and accommodation schedule which proposes a range of dwelling types and sizes to help meet a diverse range of housing needs in the Borough. The proposed mix would include 2-storey dwellings ranging from 1-bed to 4-bed properties, a limited number of apartments of 2.5 stories in height and bungalows and 1 & ½-storey dwellings.
- 4.5 As part of this provision, a mix of dwelling types are proposed from 1-bed to 4-bed properties across the Site to meet local housing needs, including housing for older people. An indicative schedule was submitted in support of the appeal scheme and is shown below:

	1 bed	2 bed	3 bed	4 bed	Total
Market	0	16	36	18	70
Affordable Housing	16	15	12	4	47

- 4.6 The remainder of the Site would be utilised for the provision of a variety of different types of public open spaces to facilitate community interaction, including a community village green, provision of a Local Area of Play, amenity green space, public formal and informal green space, and natural and semi-natural areas of open space. Drawing No.SK12 F (Policy area calculations) was

submitted in support of the appeal scheme and provides a land use budget, quantifying the proposed public open space coverage against the illustrative layout. The illustrative layout plan demonstrates the potential to provide around 3 hectares of public open space, which would be substantially in excess of the 1.55 hectares required within the draft allocation (Local Plan Review Policy LPRSA 275). The public open space would be integrated with the existing ponds and proposed attenuation basin and swales to allow a suitable landscape structure for wildlife and amenity benefit resulting in a development which is in keeping with the settlement/ rural edge character of the area.

- 4.7 The scheme will deliver significant enhancements to biodiversity. The application is supported by a Biodiversity Net Gain Briefing Note (Ecology Solutions), which confirms that the Site can deliver a 27.7% gain in habitats units and 59.3% in hedgerow units. This is significantly in excess of what is now required.
- 4.8 The proposal provides the opportunity for significant additional areas of publicly accessible greenspaces (potentially 3 hectares of additional open space) which can link with existing public rights of way opposite Albion Road and in addition, the wider network of public right of way (including PROW KM278) located in proximity to the site off Copper Lane. The proposed open space and ponds in the south of the site would be interconnected by meandering raised boardwalks and paths, which have educational and amenity features integrated into the design aspirations. The proposal therefore has the potential to offer significantly enhanced open space and recreation benefits to the wider community.
- 4.9 The approach to development on the Site is very much landscape-led and has been carefully designed to protect much of the Site's landscape features and the quality of the wider landscape character. The detailed layout, appearance, scale and landscaping are reserved for future approval; however, the coloured site layout illustrates how the site has been designed to be in keeping with the existing character of the buildings in the area and with consideration of the constraints and opportunities of the Site. The edge of settlement character has been respected with a transition from more urban to rural characteristics. New areas of green infrastructure and enhanced amenity have been carefully integrated to reflect and complement the character of the immediate area.
- 4.10 The characteristics of the appeal Site enable the scheme to be sub-divided into 5 distinctive character areas. These areas respond to the existing divisions of the Site and the surrounds, the density of the development and the types of buildings in each of these areas have been carefully varied to give a sense of identity. The site layout is considered as a series of merging character areas, east to west, with a lower scale more rural edge set to the south of the site.
- 4.11 The residential parcels will be set within a landscape framework founded on conserving and enhancing existing landscape features within the Site. This will

assist to retain a semi-rural feel to the edge of the settlement and reduce the magnitude of change to the Site's character and its context.

- 4.12 The scheme proposes restoring the existing north – south boundaries of the Site and integrates this into the development. The boundaries of the appeal Site are well defined by mature trees and hedgerows and therefore the Site is considered to be self-contained in the locality. The existing vegetation along the boundaries of the Site would largely be retained and will be enhanced in places. New planting would be introduced throughout the Site to provide a landscape buffer between the appeal Site and the neighbouring properties and to provide additional screening of the Site.
- 4.13 These design measures seek to conserve and enhance the setting of the adjacent landscape.
- 4.14 The FRA submitted in support of the appeal scheme identifies that the developable area of the Site is wholly located within Flood Zone 1 and is therefore a low risk of flooding. All forms of development are considered acceptable in principle in Flood Zone 1.
- 4.15 One of the key design principles of the appeal scheme is to provide a drainage strategy utilising an appropriate Sustainable Drainage System including drainage ditches and attenuation basins, providing appropriate drainage features to development edges and within open spaces.

5. The Development Plan and Policy Guidance

5.1 Section 38 of the Planning and Compulsory Purchase Act 2004 requires that planning applications must be considered in accordance with the Development Plan unless material considerations indicate otherwise. This plan led approach is confirmed in the National Planning Policy Framework (NPPF) which also provides guidance on the weight that should be afforded to adopted plans and those emerging through the local plan adoption process. The relevant development plan for the purposes of this application is made up of:

- (i) The National Planning Policy Framework (2023)
- (ii) Maidstone Borough Council Local Plan Review (2024)
- (iii) Marden Neighbourhood Plan (2020)

The National Planning Policy Framework (revised December 2023)

5.2 The NPPF sets out the Government's planning policies for England and how these are expected to be applied. The NPPF sets out what the government considers to be sustainable development, having regard to the three roles of the planning system which seek development to have regard to economic, social and environment sustainability. The NPPF is a material consideration in the decision-making process and at the heart of the NPPF is the presumption in favour of sustainable development.

5.3 The following parts of the NPPF are considered to be relevant to the appeal scheme.

5.4 Paragraph 11 of the NPPF states that Plans and decisions should apply a presumption in favour of sustainable development, section C of paragraph 11 clarifies that for decision-taking this means: approving development proposals that accord with an up-to-date development plan without delay.

5.5 Section 5 of the NPPF refers to delivering a wide choice of high-quality homes and aims to significantly boost the supply of housing. It notes that it is important to provide a sufficient amount and variety of land, where it is needed, to meet a range of housing requirements.

5.6 At paragraph 70 it identifies that small and medium sized sites make an important contribution to the delivery of housing, often capable of being delivered quickly.

5.7 Section 8 refers to promoting healthy and safe communities.

5.8 Promoting sustainable transport is covered in Section 9 of the NPPF (paragraphs 108 – 117). Paragraphs 114 – 117 consider development proposals.

- 5.9 Design is dealt with in Chapter 12 which sets out the objectives for achieving “well designed places”. Para 135 states that:

“Planning policies and decisions should ensure that developments:

a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”

- 5.10 Chapter 15 deals with the conservation and enhancement of the natural environment. In particular, Paragraph 186 refers to Habitats and Biodiversity.

- 5.11 Paragraph 186 states:

“When determining planning applications, local planning authorities should apply the following principles:

a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;

c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and

d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

5.12 Maidstone Borough Local Plan (2017) (MBLP) & Maidstone Borough Local Plan Review (2024) (MLPR)

5.13 At the time of the decision on the planning application (December 2023) the MBLP was the adopted Local Plan for Maidstone Borough. However, the Maidstone Borough Local Plan Review (MLPR) was formally adopted by the Council on the 20th March 2024. As such a number of the policies referred to in the Council's reasons for refusal have now been updated.

5.14 The Officer's Delegated Report dated 21st December 2023 refers to the following policies in the MBLP as being most relevant to the proposed development, and those highlighted in bold are referenced in the reasons for refusal on the decision notice. The status of those policies and relevance to the appeal scheme are listed below.

<u>MBLP Policy</u>	<u>Status following adoption of MLPR</u>	<u>Relevance to appeal</u>
SS1	Updated by policy LPRSS1	Relevant – refers to spatial strategy for the Borough
SP17	Updated by policy LPRSP9	No longer relevant as appeal site is wholly within settlement boundary
SP19	Updated by policy LPRS10(A)	Relevant – refers to housing mix
SP20:	Updated by LPRS10(B)	Relevant – refers to affordable housing
SP23	Updated by policy LPRTRA4	Relevant – refers to sustainable transport
Policy ID1	Updated by LPRSP13	Relevant – refers to infrastructure delivery

Policy DM1	Updated by LPRSP15	Relevant – refers to principles of good design
Policy DM3	Updated by LPRSP14(A)	Relevant – refers to natural environment
Policy DM8	Updated by LPEQ&D2	Relevant – refers to external lighting
Policy DM19	Updated by LPRINF1	Relevant – refers to publicly accessible open space and recreation
Policy DM21	Updated by LPRTRA2	Relevant – refers to assessing the transport impacts of developments
Policy DM30	Updated by LPRQ&D4	Not relevant as relates to developments outside of settlement boundaries

Policy LPRSA259 of the MLPR is referred to in the Council’s delegated report and is considered to be of relevance to the appeal scheme as this allocates the appeal site for residential development for approximately 113 dwellings.

The requirements of Policy LPRSA259 are set out below:

1. Land at Copper Lane and Albion Road as identified on the Policies Map, is allocated for the development of approximately 113 dwellings. The following conditions are considered appropriate to be met before development is permitted.

Design and Layout

2. The two adjacent land parcels shall be designed and delivered through a joint masterplan with a single point of access to Albion Road and a joint strategy for open space provision.

3. Lower densities should be located adjacent to sensitive boundaries.

4. The south part of the site around the existing ponds shall be kept free of development with new landscaping to soften and break views from the south.

5. Development should be integrated into the slope on the site to minimise landscape impact.

6. Design of the site will need to ensure neighbouring residential amenity is protected.

7. Site design and layout shall be informed by a local historic impact assessment.

Landscape/ Ecology

8. A phase 1 habitat survey will be required, which may as a result require on and/or-off site mitigation for the existing habitat of local fauna/ flora.

9. Structural landscaping will be required throughout the site to soften and break up the impact of built development.

10. Structural landscaping will be required along the south edge to soften and break up the impact of built development in views from the south.

11. Existing tree/hedge site boundaries shall be retained and enhanced apart from where required for vehicular or pedestrian access.

12. The site's design should have regard to the setting of the High Weald National Landscape.

13. Development will be subject to a site-wide strategy to incorporate an appropriate level of biodiversity net gain in accordance with national and local policy.

14. Provide an Ecological Impact Assessment of development sites and any additional land put forward for mitigation purposes to take full account of the biodiversity present.

Access, Highways and Transportation

15. Provision of suitable vehicular access to Albion Road that meet adequate capacity standards and safety provisions.

16. Development will be subject to the creation of safe pedestrian connections to the wider pedestrian network.

Open Space

17. Provision of new open space on site in accordance with policies LPRSP13 and LPRINF1. Provision shall include not less than 1.25 hectares of open space, with typologies in accordance with policy LPRSP13 and LPRINF1. The strategy shall ensure that areas designed to support biodiversity net gain shall not be publicly accessible.

18. Not less than 0.3 hectares useable green open space shall be provided, incorporating children's play to meet the needs of the development.

19. The function and quality of any open space shall not be prejudiced by a dual requirement to provide surface water drainage mitigation.

20. Where it is not feasible, due to site characteristics, to provide an appropriate level of on-site open space in accordance with policy LPRSP13 and LPRINF1, the scheme shall make appropriate financial contributions towards off-site provision targeted at known deficiencies in the area.

Utilities Infrastructure

21. The applicant is to demonstrate that adequate connections to the nearest points of the network are achievable and that adequate capacity exists/can be created for all utilities.

22. Where there may be limited capacity in the utility network, the occupation of the development will be phased to align with the delivery of infrastructure.

Marden Neighbourhood Plan (MNP) (2020)

5.15 The Marden Neighbourhood Plan does not allocate sites for development, rather it sets out a number of policies for developments to conform with. The Statement of case will demonstrate how the appeal proposal will comply with these policies.

- Policy NE3: Landscape Integration
- Policy NE4: Biodiversity and Habitats
- Policy BE1: Local Character
- Policy A2: Open Space
- Policy A3: Primary Education
- Policy In2: Sustainable Travel

Supplementary Planning Documents and Guidance (SPD's and SPG's)

5.16 The following are listed in the Council's delegated report and are therefore considered relevant to the appeal scheme:

- Maidstone Building for Life 12 (2018)
- Affordable and Local Needs Housing (2020)
- Air Quality Guidance (2017)
- Public Art Guidance (2017)

6. Statement of Case

6.1 This section sets out the case that the Appellant will advance in their evidence for this Appeal. The Appellant's evidence will demonstrate that the appeal Site is eminently suitable for development. This Section will first set out the Appellant's Statement of Case against the Council's reasons for refusal in respect of the Planning Application and will also set out the Appellants case with regards to other material considerations which are considered to be relevant to the Appellants case.

6.2 The planning application was refused for seven reasons as set out below:

1. *The application site lies in the countryside and residential development of this scale does not accord with the adopted Maidstone Borough Local Plan's Spatial Strategy policy SS1 which directs residential development to defined built areas and site allocations. It would erode the sense of tranquillity, resulting in an urbanising and visually prominent form of development, out of character with the rural locality, visually harmful to the setting of Marden in its rural context on approach from the south and therefore significantly harmful to the character and appearance of the countryside being the two primary tests of "harm" in adopted policy SP17. The Council has in excess of 5 years housing land supply and positive housing delivery rates. There are no exceptional circumstances that would justify departing from this strategy with the resulting harm to the character and appearance of the countryside and the proposals are therefore contrary to Policies SS1 and SP17 of the Maidstone Borough Local Plan 2017 and Marden Neighbourhood Plan policies BE1 and NE3.*
2. *The application site contributes to the landscape character of the Staplehurst Low Weald which is that of low lying gently undulating clay landscape of small fields with orchards, pasture, ponds and watercourses. The indicative sizes and number of dwellings (117 including some 2.5 storey dwellings) and associated hardstanding for access, parking and turning will result in a layout and siting of built development of a suburban form extending into the rural landscape, significantly harming its character. The indicative layout shows cramped overdevelopment along the access road entrance and in the NE corner and a proximity of dwellings to the southern and western boundaries that cannot be effectively screened by planting due in part to the intervening ponds and proposed attenuation basin. The harmful development would be particularly visually prominent due to site topography and the site being elevated above Thorn Road and Copper Lane with limited scope for adequate landscape buffers/screening at the boundaries and within the site. There is a significant loss of the orchard with only 2 very small areas being retained, contrary to conserving what is a defining land use important to the landscape character of the Staplehurst Low Weald. There will also be significant harm from external*

lighting and additional engineering to form the access onto Albion Road, a rural lane. The development would erode openness and cause unacceptable harm to the character and appearance of the countryside. The development is contrary to policies SS1, SP17, DM1, DM8 and DM30 of the Maidstone Borough Local Plan and Marden Neighbourhood Plan policies BE1 and NE3.

- 3. Due to the absence of safe pedestrian and cycle access on Albion Road to access the services within the village of Marden, the residents are likely to be reliant on the private motor vehicle to travel for access to day-to-day needs. This would be contrary to the aims of sustainable development as set out in Policies SS1, SP17, SP23 and DM1 of the Maidstone Borough Local Plan, policy In2 of the Marden Neighbourhood Plan, the National Planning Policy Framework and the objectives of Active Travel England to secure good walking, wheeling and cycling infrastructure.*
- 4. The proposed access arrangement shows that refuse freighters are not able to safely access or egress from the site without overrunning adjacent traffic lanes. The Transport Assessment is deficient in that is no Road Safety Audit, there is inadequate raw data for traffic survey, visibility splays need recalculation and trip generation data needs sensitivity testing. The development is contrary to the NPPF which requires safe and suitable access to be achieved for all users and to policies DM1 and DM21 of the Maidstone Borough Local Plan 2017 and policy In3 of the Marden Neighbourhood Plan.*
- 5. The ecology appraisal is deficient in terms of provision of habitat and/or mitigation for badgers, breeding birds, turtle doves, great crested newts and reptiles and in the assessment of the ecological value of the orchard in situ. The applicant has not taken account of local information provided by Kent Wildlife Trust and Marden Wildlife Group nor engaged with those groups. Therefore, it is not possible to confirm compliance with statutory species protection legislation, contrary to paragraph 180 of the NPPF, policy DM3 of the Maidstone Borough Local Plan 2017 and policy NE4 of the Marden Neighbourhood Plan.*
- 6. There is an inadequate amount of natural and semi-natural open space both in quantum, and public useability because of the indicative configuration and siting relative to the housing, the attenuation basin has not been demonstrated to be a wet pond and ecological habitat/mitigation areas would not be publicly accessible. Therefore, the proposal does not comply with policy DM19 of the Maidstone Borough Local Plan 2017 or policy A2 of the Marden Neighbourhood Plan.*
- 7. The development will result in significant additional pressure on Kent County Council infrastructure including primary and secondary education that is unlikely to be fully mitigated in the absence of a s106 legal agreement providing supplementary financial contributions to the Local*

Education Authority. This is contrary to policy ID1 of the Maidstone Borough Local Plan 2017 and policy A3 of the Marden Neighbourhood Plan.

6.3 Therefore, the matters of principal importance in this Appeal (based on the reasons for refusal) are considered to be;

- Principle of the development.
- Landscape - specifically the impact of the development on the countryside character of the area.
- Access issues – lack of safe pedestrian and cycle access on Albion Road and uncertainty over safe access or egress of larger vehicles to the site.
- Ecology & Biodiversity –
 - uncertainty regarding the impact of the proposed development on protected species, specifically the provision of habitat and/or mitigation for badgers, breeding birds, turtle doves, Great Crested Newts and Reptiles.
- Lack of sufficient amount in terms of quantum and public usability of the proposed natural and semi-natural open space.
- S106 – A completed S106 Legal Agreement to secure affordable housing and policy compliant financial contributions.

Reason One: Principle and location of the proposed development

6.4 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004) states '*If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise*'.

6.5 Development should therefore be determined in accordance with the Local Plan unless material considerations indicate otherwise.

6.6 Currently for the purposes of Section 38(6) of the PCPA 2004, the current development plan for the area in which the application site is located comprises of the Maidstone Borough Local Plan Review (2024) (MLPR) and the Marden Neighbourhood Plan (2020) (MNP).

6.7 The first reason for refusal contends that due to the countryside location of the site the Appeal proposal would not accord with the MBLP spatial strategy policy SS1, which directs development to defined built areas and allocations. However, as a result of the adoption of the MLPR policy SS1 has been modified by policy LPRSS1 which sets out the spatial strategy for development in the Borough over the period 2021-2038. Policy LPRSS1 refers to the role of allocation in providing for a minimum of 19,669 new dwellings over the plan period.

- 6.8 Policy LPRSA295 allocates the appeal Site for residential development comprising 'approximately 113 dwellings'. The appeal proposal is for 117 dwellings and is therefore considered to be within the range allowed by the term 'approximately'. The principle of residential development and the quantum of development proposed by the appeal scheme is considered to be in accordance with policy LPRSA295.
- 6.9 The first reason for refusal refers to policy SP17 which has now been modified by policy LPRSP9. Policy LPRSP9 refers to development in the countryside and sets out that the 'countryside' is defined as areas outside of the defined settlement boundaries as shown on the MLPR Policies Maps. However, the MLPR Policies Map (Map 42) shows that the appeal site is situated wholly within the settlement boundary of Marden. It is therefore considered that Policy LPRSP9 is not applicable to the appeal scheme.
- 6.10 Given the above, it is considered that the location and quantum of the appeal scheme proposal would not conflict with the Council's spatial strategy for the location of residential development in the Borough and is therefore acceptable in principle.
- 6.11 Given the adoption of the MLPR, the resulting subsequent change in policy and the fact that the site is now located wholly within the settlement boundary of Marden, it is expected that the Council will withdraw this reason for refusal.

Reason Two: Landscape Impacts

Landscape impact

- 6.12 The second reason for refusal contends that the development would "result in a layout and siting of built development of suburban form extending into the rural landscape, significantly harming its character."
- 6.13 It is important to note that the appeal scheme is not situated within any protected landscape designations.
- 6.14 It is also important to note that the appeal site is allocated for development for approximately 113 dwelling in the adopted MLPR. The Council have advised in their delegated report that in assessing sites such as the appeal site for development a 'landscape blind' approach was taken - i.e., there has been no landscape sensitivity testing of the allocated sites. The Council has advised that it is only at the planning application stage that landscape impact of a scheme will be assessed. However, by the very action of allocating a site for residential development in the MLPR, the Council will have already accepted there will be a consequential change to the character of the locality and a resulting impact on the existing landscape. This is particularly so in this case for development of a large-scale site and the quantum of development set out in policy LPRSA259. As the MLPR establishes the principle of developing the appeal site, the impacts fall to be judged in that context.

- 6.15 The appeal scheme is supported by a Landscape and Visual Impact Assessment (LVIA) which provides both a landscape and visual appraisal of the Site and its surroundings, and the potential impacts of the proposed development of the Site.
- 6.16 The LVIA advises that the few significant effects which have been identified as a result of the proposed development are not considered to be detrimental to the wider landscape character. Whilst it is noted that the development will change the nature of the existing character of the site, and will amend the built edge of the settlement, the proposed layout is considerate and seeks to limit these effects such that most of the existing landscape features are retained and protected.
- 6.17 As noted in the LVIA, the Site does consist of some of the landscape characteristics within the wider Staplehurst Low Weald landscape character area. However, the proximity and presence of existing settlement pattern influences this character. The Site therefore also has 'edge of settlement' characteristics. This is evidenced by the presence of rear fences along Russet Grove, facades and rooftops presence from existing residential housing within Russet Grove which adjoins the Site to the north on higher ground. Nearby existing residential housing is located along Albion Road and Thorn Road to the west. These follow the sloping topography similar to the appeal Site. It is, therefore, the character of the landscape mainly to the south and the east that is predominately rural in the context of the Site.
- 6.18 Whilst the topography of the Site is visible and informs part of the character to this edge of Marden, the Site is contained by its existing and mature vegetation along its boundaries. As part of the principles of the development, these are to be retained and enhanced where possible. This sense of containment is therefore retained.
- 6.19 The detailed layout, appearance, scale and landscape enhancements are reserved for future approval; however, the coloured site layout illustrates how the site has been designed with consideration of the constraints and opportunities of the Site and its context such as nearby buildings and the rural landscape. The edge of settlement character has been respected by enabling space for new tree planting, vegetation and open spaces that help set the proposed buildings within a verdant landscape framework.
- 6.20 The design of the scheme seeks to conserve and enhance the landscape within the Site and its context. In addition to the retention and enhancement of existing field boundaries around the Site, this includes the retention and enhancement of the existing ponds to the south and the restoration of lost north-south field boundary hedgerows within the Site.
- 6.21 As shown on the illustrative layout, new vegetation, including trees, vegetated swales and hedgerows, can be introduced throughout the Site to help the buildings and associated hard infrastructure sit within a softer landscape
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framework. The potential location of these shown in the illustrative layout have been considered in the context of the site's topography and the transition from urban settlement edge to the rural countryside context.

- 6.22 Further new vegetation is proposed to create a landscape buffer between the Site and the neighbouring properties and to provide additional screening of the development from views outside of the Site where possible.
- 6.23 The scheme seeks to protect and enhance the characteristics to the southern part of the Site with the retention and enhancement of the ponds and the mature boundary vegetation along Copper Lane. A new attenuation basin, with a 'wet well' is also located in this area, creating a substantial verdant buffer with potential for increased biodiversity between the new housing and the rural characteristics of Copper Lane and the countryside to the south. The illustrative layout shows a looser edge to the settlement than the existing line of rear / backs of properties within Russet Grove.
- 6.24 The illustrative layout also demonstrates areas of the existing commercial orchards that could be retained and incorporated into the development. This, together with the retention and enhancements to the ponds and field boundaries, would retain elements of the Site's contribution to the landscape character of the wider Staplehurst Low Weald.
- 6.25 Furthermore, the illustrative layout demonstrates how these valued landscape characteristics within the Site are enhanced and made more accessible to the wider community, as they are to be set within new public accessible open space with connecting footpaths and walkways throughout.
- 6.26 The appeal scheme is considered to be a form of development which is sensitive to its environment, providing a transition between the urban residential area of the Russet Grove and the rural edge.
- 6.27 The appeal scheme was also supported by an Outline Landscape and Ecological Management Plan (OLEMP) based on the illustrative scheme. The aims and objectives of this OLEMP is to set out a detailed framework of landscape operations required to:
- Secure the long term health, safety, screening quality and habitat connectivity of the important landscape green infrastructure of the site provided by existing and new hedgerows and tree cover and maintain and enhance the nature conservation value of these areas;
 - Manage the new attenuation basin and swales to provide attractive features of conservation value with appropriate levels of accessibility, whilst ensuring their function as part of the natural drainage systems is also maintained as a Sustainable Urban Drainage System (SUDS) element.

- Provide a range of informal open spaces and a setting for the development.
- Provide and maintain a natural screening from the wider open countryside to the south.
- Provide and maintain connections throughout the areas of open space.
- Provide and maintain hedgerows throughout the development.
- Enable new and existing vegetation to establish and be maintained to deliver the aims and aspirations shown in the Ecological Assessment.
- Provide a statement on who is responsible for management and maintenance post construction.

6.28 The OLEMP also helps illustrate how the proposed development can help deliver the objectives set within Maidstone Borough Council Landscape Character Assessment Supplement.

6.29 For the reasons stated above, it is not considered that the appeal scheme would result in a layout which would significantly harm the character of the wider landscape.

Cramped development and location of residential parcels

6.30 The second reason for refusal also states that the indicative layout shows cramped overdevelopment along the proposed access road entrance and in the North-East corner and a proximity of dwellings to the southern and western boundaries that cannot be effectively screened.

6.31 The Appellant does not agree with this statement. The location of the residential parcels on the site have been thoughtfully considered and cannot be considered cramped. The whole of the Site measures 5.98 ha and the total number of dwellings proposed on the Site is 117 new homes. This would result in a density of 20dph, which is broadly similar to the existing residential areas in the village. The proposed density is comparable to the surrounding area but would still be less than the density at the neighbouring site of Russet Grove to the north, which would help to provide a better transition from the current hard urban edge of the village presented through the Russet Grove development to the semi-rural surroundings beyond the Site.

6.32 The characteristics of the appeal Site enables the scheme to be sub-divided into 5 distinctive character areas. These areas respond to the existing divisions of the Site and the surrounds, the density of the development and the types

of buildings in each of these areas have been carefully varied to give a sense of identity. The site layout is considered as a series of merging character areas, east to west, with a lower scale more rural edge set to the south of the site.

- 6.33 Furthermore, the residential parcels will be set within extensive areas of green space with retained field boundaries which will assist to retain a semi-rural feel to the edge of the settlement and will also give the impression of lower density.
- 6.34 Policy LPRSA295 sets out criterion regarding the design and layout of proposals on the appeal Site, including lower densities adjacent to sensitive boundaries; the existing ponds on southern part of Site should be kept free of development; and design of the Site to ensure neighbouring residential amenity is protected.
- 6.35 An area of parkland, orchards, ponds and usable and natural open space will be provided in the southern part of the Site, this area would be kept free of development in accordance with the Site allocation requirements of Policy LPRSA295. The appeal scheme is considered to accord with the design guidance set out in Policy LPRSA295.

Visual Prominence

- 6.36 The second reason for refusal also states that the development would be particularly visually prominent due to site topography and the site being elevated from Thorn Road and Copper Lane. However, it should be noted that the appeal scheme is outline only, the detailed layout, appearance, scale and landscaping are reserved for future approval, and this would also include height of the proposed buildings.
- 6.37 As indicated in the LVIA, although restricted by existing mature vegetation within the Site and on nearby land, parts of the Site are visible from beyond its boundaries. This is generally because of the sloping topography and the low lying landscape to the south. There are direct views towards the proposed access road from Albion Road close to the entrance to PRow 281.
- 6.38 Existing views towards the Site from the south currently include views of the edge of Marden. Although not prominent, existing residential housing within Russet Grove, along Albion Road and along the sloping topography of Thorn Road are visible from various locations on lower ground.
- 6.39 There is a network of PRows to the south with potential views towards the development. There are also locations along the existing road network, including Copper Lane, Thorn Road and Albion Road with views towards the Site and existing residential properties of Marden. These were assessed as part of the LIVA process with a selection of relevant viewpoint photography taken to help illustrate the assessment of the visual effects. Potential private views were also identified and assessed. Views with significant effects were identified as being very localised to the Site.

- 6.40 Whilst the LVIA identified there to be changes to some views of the Site due to the development, the magnitude of these changes is reduced by the inherent mitigation within the appeal scheme. This includes the retention of existing mature boundary vegetation, limiting the development on the lower levels close to Copper Lane and allowing space for new structural tree planting and vegetation to help screen the development where possible from the south and north.
- 6.41 Furthermore, the appeal scheme was supported by an indicative building heights layout plan (ref: SK26 Rev C), this demonstrated that the small number of 2.5 storey dwellings were sited in the northern part of the site, whilst this is the highest part of the site, it should be noted that these 2.5 storey dwellings would be sited away from the southern part of the site, and also away from the sensitive boundaries of the site.
- 6.42 As such, it is considered that visual prominence and visual impact has been lessened as much as possible and reflects the adjacent residential development at Russets Grove to the north. It should also be noted that there are a number of 3-storey buildings within the Russet Grove development, and the position of the built form and 2.5-storey buildings proposed within the appeal scheme has been sited to correspond with the built form of the adjacent residential development at Russets Grove to the north. The appeal scheme is therefore considered to be read within the same built form as the development at Russet Grove and would therefore not be considered incongruous or obtrusive in this location.
- 6.43 Views from further to the south looking north towards the south facing slopes of the Site and the exiting built edge of Marden are predominantly of the rural countryside with mature vegetation along field boundaries. Beyond this, there are distant views of the existing residential housing that forms the existing edge of settlement. This is generally positioned on the higher ground and on south facing sloping ground such as Thorn Road.
- 6.44 As noted above and evidenced within the LVIA, the existing settlement edge is visible but is not 'visually prominent' from a distance to the south. For the reasons indicated above and as described within the LVIA, the proposed developed would not bring much change to this. As such, it is considered that the development would not be 'visual prominent'. The prominence of the rural landscape is retained.
- 6.45 Whilst receptors using Copper Lane, Thorn Road and Albion Road on lower ground closer to the Site may experience greater change in views due the development, these are very localised and mostly screened by existing boundary vegetation and the proposed new vegetation within and around the Site. Furthermore, the illustrative proposals show how the building layout, heights and built form can help limit and reduce any perceived prominence of the development in its context.

Loss of Orchard

- 6.46 The second reason for refusal also refers to the significant loss of the orchard, however, the appeal site is allocated for residential development and therefore the loss of the orchard is to be expected. The design guidance set out in LPRSA295 does not require the retention of the orchard, instead it requires that the existing tree/hedge site boundaries shall be retained. The appeal scheme proposes the retention and enhancement of the site boundaries and as such is considered to comply with the requirements of policy LPRSA295. Furthermore, parcels of the existing orchard are to be retained in the southern part of the site.
- 6.47 Although a matter for detail, the illustrative layout does illustrate potential areas of the existing orchard that could be retained and incorporated into the development layout and character. Furthermore, whilst the existing orchards are in commercial use, the orchard areas which are to be retained as part of the appeal scheme are to be utilised as community orchards, therefore enabling these valued landscape features to be accessed and enjoyed by the community.

Lighting

- 6.48 The second reason for refusal also states that there will be “significant harm from external lighting and additional engineering to form the access onto Albion Road, a rural road.” With regards to lighting, no information regarding this matter was submitted in support of the appeal scheme and there is no evidence put forward by the Council in their delegated report to support this assertion. Furthermore, it is considered that lighting is a design matter to be determined at a subsequent reserved matters stage, accordingly if required a lighting scheme could be submitted in support of any future RM application, and where necessary external lighting could be controlled via condition. With regards to the additional engineering to form the access onto Albion Road it should be noted that a single point of access onto Albion Road is a requirement under policy LPRSA295, as such, in allocating the site for development and requiring access onto Albion Road the Council must accept that an element of additional engineering to form this access will be necessary.

Reasons Three & Four: Pedestrian access and access arrangements

- 6.49 The third reason for refusal relates to the absence of safe pedestrian and cycle access on Albion Road to access the village services, and as a result the Council considers that residents would be reliant on private motor vehicles.
- 6.50 The site specific Policy LPRSA295 requires the development to create safe pedestrian connections to the wider pedestrian network.

- 6.51 The immediate area of Albion Road where the Site access is proposed, does not currently benefit from pedestrian footways. The proposed Site access junction would be designed to incorporate pedestrian and cycle access into the Site. To facilitate pedestrian access into the Site, a 2m wide footway connection would be provided on both sides of the proposed new bellmouth arrangement and route into the site. The southern footway of the proposed bellmouth stops opposite Public Footpath KM281 and a proposed dropped kerb crossing will be provided to facilitate pedestrian access to the west side of Albion Road to access Public Footpath KM281. Improvements are proposed to Public Footpath KM281 which provides a convenient and safe route to the majority of amenities in Marden village centre.
- 6.52 Since the planning refusal the Appellant has been exploring the option of an enhanced pedestrian route along Albion Road with the Local Highway Authority. The Appellant and the Local Highway Authority are in agreement that the appeal scheme can provide a safe pedestrian connection along Albion Road – this takes the form of a footway to connect to the existing Albion Road footway provision to the north to provide a further convenient pedestrian connection to the village centre / amenities (in addition to the Public Footpath KM281 route).
- 6.53 The submitted Transport Assessment confirms that the Site is well located to encourage travel by more sustainable modes of transport, the promotion of sustainable modes of travel will be framed by a residential travel plan. The scheme will therefore meet the aims of the NPPF by locating new development where sustainable modes of transport can be utilised.
- 6.54 The Appellant and the Local Highway Authority have now reached the agreed position that:
- (a) The appeal scheme does create safe pedestrian connections to the wider pedestrian network; and
 - (b) All of Marden's amenities / facilities are accessible by walking and cycling from the site and the development provides appropriately for active travel and public transport modes.
- Thus, meaning that the residents are likely to be reliant on the private motor vehicle to travel for access to day-to-day needs.
- 6.55 It is noted that the Council's delegated report refers to this alternative pedestrian route and does not state that this option would be an unacceptable alternative.
- 6.56 In terms of the perceived reliance on private motor vehicles it should be noted that the appeal Site benefits from close proximity to existing bus routes, the closest bus stops on Plain Road (near the Albion Road junction) are circa 270m and 360m from the centre of the site and the bus stops on the B2079 / High

Street are approximately circa 740m and 830m from the centre of the site. These bus stops provide frequent connections to and from the county town of Maidstone and the stops between.

- 6.57 Marden rail station is located approximately 1km to the northwest of the site, within a reasonable walking distance (12 minutes) and comfortable cycle distance (4 minutes). The station is situated on the South East Main Line and provides services to high order destinations such as London, Tonbridge and Ashford.
- 6.58 The centre of the village of Marden is within walking distance being only 400m from the Site, the centre of the village provides access to a number of facilities and services including a pharmacy, a church, a convenience store and a number of restaurants, pubs and shops. The village also has a primary school which is located approximately 1100m from the application site. The roads in the local area are considered suitable for cycling. The Transport Assessment which supports the appeal scheme confirms that Albion Road, in the vicinity of the site frontage' does currently operates safely as a shared surface and mixed traffic environment for both pedestrians and cyclists. Therefore, there are strong opportunities to encourage walking and cycling.
- 6.59 It is therefore considered that this Site benefits from good public transportation links, and a range of services and facilities are within walking/cycling distance of the Site. As such the Site is considered to be in a highly sustainable location, and development on the Site provides real and viable opportunities for travel by modes of transport other than the private car. Furthermore, the allocation of the site in the Local Plan Review demonstrates that the Council consider the site to be an eminently suitable and sustainable location for development.
- 6.60 The fourth reason for refusal relates to a number of matters, namely:
- (a) Whether the proposed access arrangement provide safe provision for refuse vehicles; and
 - (b) That the Transport Assessment is deficient in that is no Road Safety Audit, there is inadequate raw data for traffic survey, visibility splays need recalculation and trip generation data needs sensitivity testing.
- 6.61 Since the planning refusal the Appellant has been discussing these matters with the Local Highway Authority.
- 6.62 On the matter of refuse vehicle access, the appellant has discussed improvements to the proposed access with the Local Highway Authority which introduce over runnable areas and minor widening, which minimises the extent of overrunning. The LHA agrees that refuse vehicle / larger vehicle movements would be infrequent and on this basis the revised arrangement is considered acceptable to the LHA.

- 6.63 On the matter of a Road Safety Audit, the appellant has now submitted a Stage 1 Road Safety Audit and Designer's Response which is acceptable to the Local Highway Authority.
- 6.64 On the matter of inadequate raw data for traffic survey, the appellant has now submitted this to the Local Highway Authority. This has been reviewed by the LHA and allowed the LHA to validate and agree to the suitability of the data for the Transport Assessment.
- 6.65 On the matter of visibility splays needing recalculation, the improved access arrangements includes visibility splays showing the minor adjustment for bonnet length which the Local Highway Authority is content with.
- 6.66 On the final matter of trip generation data needing sensitivity testing, the appellant has now submitted the sensitivity testing to the Local Highway Authority. The LHA agree that the results confirm that the removal of the identified site does not have a material impact on the trip generation nor the conclusions in the Transport Assessment that the impact of development generated traffic on the operation of the local highway network is not significant. In light of the agreements reached with the Local Highway Authority, the Council is invited to withdraw reasons for refusal three and four.

Reason Five: Biodiversity & Habitats –

- 6.67 The fifth reason for refusal contends that the ecology appraisal submitted in support of the appeal scheme is deficient. The appeal scheme is supported by an Ecological Impact Assessment (EclA). The EclA identified the baseline ecological conditions of the Site. This confirmed that the majority of the Site comprises of a commercial intensive Orchard, which limits its ecological value due to the application of herbicides and pesticides.

- 6.68 It is noted that the fifth reason for refusal refers to protected species, specifically the following:

Badgers

- 6.69 The proposed scheme will result in the loss of the onsite badger sett. The badger sett will be closed under the Badger Class Licence, which will be registered/licenced by Natural England. The appellant has committed to the creation of an artificial sett, which will be located in the southern part of the Site. The sett will be of a high-quality design, at least 100m² in area, with at least six entrances. The sett will contain at least six nesting chambers made from hardwood plywood, comprising two different sizes, 100cm x 100cm and 100cm x 60cm. Tunnels will be constructed from 300mm diameter plastic drainage pipe. The bottom of the pipes will be cut out to create earth floors. The sett's internal architecture will include a range of undulations/levels to improve airflow/circulation. Sand will be imported to make the sett more

attractive to badgers. Post and rail fencing will be installed, and thorny scrub will be planted around the sett.

- 6.70 The proposed scheme includes new orchard planting and creation of significant areas of hedgerows, which will provide food sources. Connectivity to offsite habitats will be maintained. Overall, the proposed scheme will not generate significant impacts to badgers.

Great Crested Newts

- 6.71 In order to help address the concerns raised regarding great crested newts, the appellants commissioned updated aquatic (bottle trapping) surveys of on-site ponds 1-4 between May and June 2024. Access letters were also sent for offsite ponds 5, 6, 7, 8, 9, 25, and 26. Access was granted for ponds 8 and 9, but it was too late to carry out surveys. Access was not granted for other ponds.
- 6.72 The aquatic bottle trapping surveys carried out on ponds 1-4 in 2024 returned negative results for great crested newts, indicating likely absence.
- 6.73 In 2023, pond 5 (the only other onsite pond) returned a negative App result suggesting great crested newts are not present within this pond.
- 6.74 Pond 10, which is a small offsite pond in a hedegrow immediately adjacent to the south-west corner of the Site (close onsite Ponds 1-4), was subjected to an aquatic (bottle trapping survey) in 2016 and returned 1 great crested newt. In 2021, the pond returned 3 positive replicates out of 10 for great crested newt eDNA. This does not conclusively confirm current great crested newt presence. Access to carry out updated aquatic surveys of the pond was denied in 2021 and 2022/2023. Given that the pond is of below average suitability, and adjacent onsite ponds 1-4 are do not support great crested newts, it is considered unlikely that pond 10 supports a viable great crested newt population.
- 6.75 Pond 9 is an offsite pond located approximately 180m northeast of the site and is a small garden pond. After returning a positive eDNA result for great crested newts in 2023 pond P9 was recorded as having a small population of great crested newts with a maximum count of 9 females and 3 males.
- 6.76 All other ponds within 250m either were found to not support populations of great crested newts, and/or they are spatially separated from the Site.
- 6.77 Although the Site is within an 'amber' zone for great crested newts, none of the onsite ponds have been found to support great crested newts. Only pond 9 (an offsite pond 180m northeast of the Site) has been confirmed to support a small population of great crested newts, and it is a considerable distance from the Site. In any case, the on-site ponds will be retained.

- 6.78 With regards to terrestrial habitat, given the intensive mowing of the orchard grassland and application of pesticides, it is not considered that the on-site terrestrial habitats are exploited to any significant extent by great crested newts. The highest quality terrestrial habitats for great crested newts are the onsite hedgerows. Of the 1.29km of hedgerows, only c.0.2km will be lost to facilitate the development. In contrast, 1.33km of native hedgerow will be created.
- 6.79 Based on these factors, and the fact that the onsite ponds will be retained (and enhanced to make them more suitable for great crested newts), along with provision of high-quality terrestrial habitat, it is considered an offence is highly unlikely, provided that precautions are taken prior to construction, with additional measures carried out under licence if required. Precautionary methods and licence protocols are outlined in the Technical Note: Ecology Response by Ecology Solutions (Appendix C). It is considered that a licence could be obtained if required but is not considered strictly necessary, based on the absence of great crested newts within onsite ponds, and very low numbers of great crested newts within offsite ponds.
- 6.80 In addition to enhancement of existing ponds, new waterbodies will be created, which will be linked by green corridors of rough grassland and hedgerows, which will create terrestrial dispersal routes for amphibians between waterbodies, and to off-site habitats.
- 6.81 The habitat provision (particularly creation of high-quality ponds suitable for breeding along with terrestrial habitat) is considered to be a betterment to the existing situation and is considered likely to attract great crested newts to the Site, which would benefit the local metapopulation and make more resilient to future threats.

Breeding Birds (including turtle doves)

- 6.82 In order to address comments raised regarding the potential importance of the Site to breeding birds, including turtle doves, breeding bird surveys have been instructed and at the time of writing, 4/6 surveys have been carried out. On the survey of 5th June 2024, one turtle dove was recorded on site on the eastern boundary, which subsequently moved to an adjacent hedge off site, where it spent the vast majority of the survey calling. It was not considered to be nesting on site.
- 6.83 The applicant has amended the site layout and incorporated additional blocks of scrub (amounting to just over 0.2ha) in the south of the site close to Copper Lane to provide additional compensatory habitat for the loss of scrub in the north-west. This includes additional bolstering of hedgerow H5 along Copper Lane, which is currently tall and narrow and not optimal habitat for Turtle Dove (which prefer denser/wider hedgerows). Given the provision of significant hedgerow creation, and additional high-quality terrestrial habitats, which will

be suitable for turtle dove (and other species), it is not considered that the proposed scheme would result in any significant impacts to breeding birds.

- 6.84 In addition to the breeding bird surveys, the Appellants have been in discussions with Nicholas Trower, Planning and Policy Officer for Kent Wildlife Trust, in conjunction with members of the Marden Wildlife Group, to agree a financial contribution towards a project directly associated with the Site and surrounding turtle dove habitats, which will be part of their 2024 Turtle Dove Research Programme. This will be agreed prior to the Appeal.

Reptiles

- 6.85 With regard to 'Reptiles' KCC EAS stated:

"Whilst it is indicated that habitat post-development will be improved for reptiles, it is unclear how impacts to reptiles will be mitigated for during the site clearance and construction process. The extent of areas off-site or on-site suitable to support reptiles displaced during habitat manipulation whilst construction takes place are unclear. If habitat manipulation is deemed an appropriate mitigation measure, the reptiles must have suitable habitat to move into for the duration of construction. We request clarity on how this will be dealt with effectively to avoid injury/killing, but also to avoid a loss of the on-site population between site clearance and operation. We note that whilst the report indicates that there is only habitat suitable for reptiles along the margins of the site, there are a cluster of reptile records along H4, around P1/a spoil mound, H5, P3 and P4. These areas are all to be lost/relandscaped within proposals and is suggestive of more habitat available than indicated in the main text of the report. Additional information regarding reptile mitigation measures should be supplied prior to determination. This is in alignment with paragraph 99 of ODPM 06/2005 which states, "it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision".

- 6.86 Updated reptile surveys have been commissioned in May and June 2024. To date, 4/7 surveys have been carried out. Low populations of slow worm and grass snake have been recorded, which is in line with the previous surveys, although in 2021 a low population of common lizard was also recorded.

- 6.87 The reptiles would be relocated to the receptor areas within the south of the Site, that would also be created for great crested newts in tandem with the mitigation strategy for that species. As such, this would ensure injury/killing is avoided and address the concerns raised by KCC.

Ecology Enhancement and Mitigation and Biodiversity Net Gain

- 6.88 The Indicative Proposals are capable of delivering significant ecological enhancement. The exact detail of this will be provided at the Reserved Matters stage, but the Outline appeal scheme clearly demonstrates that this is a significant benefit of the development.
- 6.89 The layout has been developed with the biodiversity of the appeal Site as a key consideration and has been designed to minimise the potential for any negative impacts from habitat fragmentation. The existing hedgerows along the boundaries of the Site are to largely remain and supplementary planting is also proposed along the boundaries. New areas of species-rich grassland are proposed along with the creation of new attenuation features, and the planting of new native trees/hedges/scrub which will provide new and enhanced opportunities for a range of invertebrates. Mitigation and enhancement measures have been proposed and these have been incorporated into the proposal in order to offset the impact of the development.
- 6.90 Enhancing orchard, grassland and mixed scrub habitats is a key focus of the mitigation strategy for this site. The orchard, grassland and mixed scrub habitats which are currently present within the site are of poor quality and lacking in diversity. Through additional management, it will be possible to create habitats which have a greater diversity, and as a consequence support a more diverse range of fauna. Appropriate management of good quality grassland and scrub throughout the site will further provide net gains. The results of the BNG analysis work have confirmed that the site can deliver significant net-gains to biodiversity of **27.77%**. This is in excess of the 10% which will be required under the Environment Act and above the 20% BNG required under Policy LPRSA14(A) of the MLPR.
- 6.91 The biodiversity improvements that the proposal would provide are considered to carry substantial weight in favour of the appeal scheme.

Reason Six: Amount and useability of open space

- 6.92 Policy LPRSA295 sets out that development on the site should include the provision of not less than 1.25ha of open space, and that not less than 0.3ha of useable open space shall be provided, incorporating children's play to meet the needs of the development. The policy also confirms that where it is not feasible to provide the required level of on-site provision the scheme shall make appropriate financial contributions towards off-site provision.
- 6.93 The illustrative layout submitted in support of the appeal scheme demonstrates how considerable areas of open space (3 hectares) could be provided, alongside 117 homes and infrastructure, providing significantly in excess of the 1.25 hectares required by Policy LPRSA295
- 6.94 The appeal scheme also proposes areas of informal open space and amenity grassland, a community orchard, wildflower meadows, a Village Green, and a play area. The appeal scheme would provide in excess of the 0.3ha of useable

open space as required under policy LPRSA295. The proposal will provide new facilities for the residents of the proposed development but also for the surrounding community to enjoy. The proposal would therefore bring benefits to the new and existing community in Marden.

- 6.95 The Council's delegated report refers to the attenuation basin and considers that this has not been demonstrated to be a fully wet pond and areas set aside for ecological habitat / mitigation areas would not necessarily be publicly accessible. It should be noted that the layout is illustrative and given that the appeal scheme is submitted in outline only, this level of detail will be reserved for a subsequent reserved matters application. It is considered that terrestrial ecological areas (other than the artificial badger sett) are compatible with one another and can be used responsibly by the public. No significant conflicts between wildlife and public use are envisaged.

Reason Six: Amount and useability of open space

- 6.96 Policy LPRSA295 sets out that development on the site should include the provision of not less than 1.25ha of open space, and that not less than 0.3ha of useable open space shall be provided, incorporating children's play to meet the needs of the development. The policy also confirms that where it is not feasible to provide the required level of on-site provision the scheme shall make appropriate financial contributions towards off-site provision.
- 6.97 The illustrative layout submitted in support of the appeal scheme demonstrates how considerable areas of open space (2.67 hectares) could be provided, alongside 117 homes and infrastructure, providing significantly in excess of the 1.25 hectares required by Policy LPRSA295. B.Yond Homes has prepared a Green Infrastructure/Policy Area Compliance Plan (Appendix B) that demonstrates the appeal schemes compliance with Policies DM19 (now replaced by policy LPRINF1) and LPRSA295 this is included as Appendix B.
- 6.98 The appeal scheme also proposes areas of informal open space and amenity grassland, a community orchard, wildflower meadows, a Village Green, and a play area. The appeal scheme would provide in excess of the 0.3ha of useable open space as required under policy LPRSA295. The proposal will provide new facilities for the residents of the proposed development but also for the surrounding community to enjoy. The proposal would therefore bring benefits to the new and existing community in Marden.
- 6.99 The Council's delegated report refers to the attenuation basin and considers that this has not been demonstrated to be a fully wet pond and areas set aside for ecological habitat / mitigation areas would not necessarily be publicly accessible. A technical note from HSP is included at Appendix D and this confirms that the attenuation basin is to be a wet pond. In addition, the Drainage Consultant has provided an updated FRA drawing (ref: HSP 2024-

C3571-C&S-TR-2388) which confirms the accommodation of the wet pond well below the attenuation requirements of the surface water, and this is included at Appendix D. However, it should be noted that the layout is illustrative and given that the appeal scheme is submitted in outline only, and this level of detail will be reserved for a subsequent reserved matters application. It is considered that terrestrial ecological areas (other than the artificial badger sett) are compatible with one another and can be used responsibly by the public. No significant conflicts between wildlife and public use are envisaged.

- 6.100 Policy A2 of the MNP requires all major developments to provide areas of amenity, recreation, woodland, ponds or other water features and these are to be retained for community use with links being provided. The appeal scheme will provide the areas required under policy A2 of the MNP, furthermore, the scheme will provide a number of additional footpaths within the Site which will connect the internal landscape areas together. It will also provide links to the existing Public Rights of Way which is located opposite the proposed Site access and beyond to the wider PROW network. The proposal would also create a pedestrian and cycle access through the Site which links to Copper Lane. All of which helps to link the Site towards the village centre and beyond.
- 6.101 The proposal will therefore provide connections with the existing adjoining communities in the area and these connections will help to ensure that the proposal integrates well, by maintaining and enhancing connectivity to the village centre with cycle routes and footpaths.
- 6.102 The appeal scheme is considered to comply with the requirements set out in Policies LPRSA295 and LPRINF1 of the MLPR, and the requirements of policy A2 of the MNP.

Reason Seven: Lack of completed S106 Agreement

- 6.103 Draft Heads of Terms has been submitted in support of this appeal and the appellant is committed to advance and complete a S106 agreement prior to the determination of this appeal.
- 6.104 It is anticipated that the S106 Agreement would secure the 40% affordable units (47no. units) required to be provided by MBC. In addition, Kent County Council (KCC) has identified eight 'Community Services' projects that it considers should be funded by the Proposed Development. The Appellant understands that KCC considers these projects could be funded through the CIL charge that the Proposed Development will be paying, but anticipates there may not be sufficient CIL funding available. Consequently, KCC has requested that if its suggested contributions will not be fully provided by CIL a planning obligation should be required.
- 6.105 The Appellant is willing to pay contributions that are properly justified and meet the tests imposed by CIL Regulation 122 and will have further

discussions with KCC about the justification it has provided. The Appellant is also concerned that it should not pay twice for supporting infrastructure, and that CIL funding provided by the Proposed Development should be appropriately used. The Appellant will discuss these matters further with MBC and KCC, with a view to ensuring that each party's viewpoint is understood and that any planning obligation requirements are appropriately worded.

- 6.106 Once the S106 Agreement has been completed it is anticipated that this reason for refusal would be withdrawn by the Council.

7. Benefits of the Appeal Scheme

- 7.1 The Appeal Scheme offers a range of significant benefits which weighs in its favour of allowing the appeal, most notably the following:

Provision of Market Housing

- 7.2 The Appeal site is an allocated site in the LPR and therefore forms an essential part of the spatial strategy and the delivery of 19,699 dwellings for the Borough over the plan period. The LPR was adopted on the basis of a stepped housing trajectory, relying on the delivery of larger sites including garden settlement and garden community. These large scale sites will come forward towards the end of the plan period, therefore smaller housing sites such as this allocated site will help make an important contribution to delivering housing in the first five year period of the LPR.

- 7.3 The delivery of up to 117 homes on this allocated site is a significant social benefit which weighs heavily in favour of the scheme.

Provision of Affordable Housing

- 7.4 Policy LPRSP10 (B) states that major housing developments on greenfield sites within high value zones (such as Marden), the target affordable housing rate is 40% of the total number of homes provided.

- 7.5 The Appellants have commissioned an updated Affordable Housing Statement to support the Appeal submission, this is attached at Appendix A. This statement confirms that there is a need to deliver 559 affordable homes in the Borough between 2019/20 and 2036/37, however, the Council's SHMA 2021 Update identified that a shortfall of -551 affordable dwellings has already arisen in the last four years alone. There is therefore a significant need for affordable dwellings in the Borough. In light of this need, the provision of 47 affordable dwellings will make an important contribution to help meet the affordable housing need, and this weighs heavily in favour of the Appeal Scheme.

- 7.6 The Appeal Scheme will be fully compliant with policy LPRSP10 by delivering 40% affordable housing, i.e. up to 47 units. This is a substantial social benefit that should be given substantial weight.

Biodiversity Net Gain

- 7.7 The Ecological Appraisal submitted in support of the Appeal proposal confirmed that the scheme would deliver a Biodiversity Net Gain of 27.77%.

The Appeal Scheme therefore significantly exceeds the 10% biodiversity net gain requirement of the Environment Act, and is above the 20% BNG required under policy LPRSA14(A) of the LPR.

- 7.8 This is considered by the Appellant to be a substantial environmental benefit to which at least significant weight should be given. As the biodiversity net gain is to be delivered solely on site, it is thought that a condition securing the net gain provisions in line with Schedule 14 of the Environment Act would be sufficient to secure these biodiversity benefits.

Open Space Provision

- 7.9 Policy LPRSA295 sets out that development on the site should include a provision of not less than 1.25ha of open space, and not less than 0.3ha of useable open space shall be provided.
- 7.10 The illustrative layout submitted in support of the Appeal proposal demonstrates that a considerable area of almost 3ha of open space can be provided on site. This provision is significantly in excess of the 1.25ha required under policy LPRSA295.
- 7.11 The Appeal Scheme would provide areas of informal open space and amenity grassland, a community orchard, wildflower meadows, a village green and a play area. Through these measures the Appeal Scheme would provide in excess of 0.3ha of useable open space as required under Policy LPRSA295.
- 7.12 The provision of open space and useable open space on site is considered to be a socio-environmental benefit to which significant weight should be given.

Building a Strong, Competitive Economy

- 7.13 The Appeal Scheme will result in a number of economic benefits, including:
- The provision of construction jobs directly on site;
 - The provision of other jobs in construction related activities;
 - The creation of 117 dwellings will help to generate additional household expenditure in the local area;
 - New homes in the Borough will help to support employment growth;
 - Generation of annual Council Tax payments.
- 7.14 To put the above benefits into context, the HBF Housing Calculator allows the calculation of benefits that building new homes will bring to the community and the estimated knock-on benefits to the economy. Inputting the number of homes proposed in the Appeal Scheme i.e 117 dwellings, provides the following estimates for employment and revenue:

- 7.15 117 dwellings would support the employment of 362 people; provide 3 apprentices, graduates or trainees and would generate £1,410,201 in tax revenue, including £132,146.82 in council tax revenue.
- 7.16 In addition, significant and meaningful financial contributions will arise from the Appeal proposal in the form of 106 contributions and Community Infrastructure Levy (CIL). A not insignificant portion of CIL contributions (i.e. 25%), would be passed to Marden Parish Council to spend locally on projects identified by the community.
- 7.17 Additionally, the direct on-site benefits would be secured via S106 contributions including the public open space, and pedestrian connections.
- 7.18 The economic benefits which result from the Appeal Scheme are considered substantial and should be given significant weight.

8. Conclusions

- 8.1 The appeal scheme is considered to wholly accord with the requirements of the allocation of the Site as set out in Policy LPRSA295 in the Maidstone Local Plan Review. The Site is considered to be a logical extension to the settlement boundary of Marden, it is in a highly sustainable location close to local services and facilities in the village centre, and in close proximity to public bus links. The principle of development on the Site has been accepted and the Site is allocated within the Local Plan Review and the proposals respond to the policy criterion.
- 8.2 The proposal, which is for up to 117 dwellings, accords with the allocation policy (LPRSA295) which is for 'approximately' 113, it represents a small, but compliant uplift from the policy requirement, and is considered to be within the range considered acceptable under the term 'approximately'. The proposal makes best use of land, within the area defined for development in the Local Plan Review and at a density (20dpa) which is considered to be appropriate to both the local area and the suburban edge location. This is within the context of considerable open space including parkland, community orchard, village green, meadowland, and an area of play. It is considered that the proposal is a sensitively designed scheme, which would relate well to existing settlement of Marden.
- 8.3 It has been demonstrated that there are no constraints to development of the Site and that it presents opportunities to provide significant ecological and recreational benefits to new and existing residents whilst delivering much needed housing. The proposal would result in a scheme that is eminently suitable within the surrounding area would make a significant contribution towards the total number of dwellings required in Marden and will help to maintain the housing land supply within the Borough.
- 8.4 The Site will deliver a policy compliant proportion of affordable housing, a mix of dwelling types, sizes and tenures can be delivered across the Site to meet local housing needs, as required by the MBLP.
- 8.5 Furthermore, considerable open space significantly in excess of the 1.25 hectares required by policy LPRSA295 can be delivered, totalling 3 hectares within the indicative layout, which will deliver much needed local facilities such as a community orchard, area of play, and a parkland.
- 8.6 Within this context, the scheme could deliver significantly above the required 10% Biodiversity Net Gain and in excess of the 20% Biodiversity Net Gain required within the Local Plan Review, with the proposed illustrative layout

demonstrating a **27.77%** increase in Biodiversity Net Gain. This exceeds the 10% BNG required under the Environment Act and above the 20% required in the Maidstone Local Plan review.

8.7 In transport terms:

- (a) Safe and suitable access to the Site from Albion Road and Copper Lane is provided;
- (b) All of Marden's amenities / facilities are accessible by walking and cycling from the site and the development provides appropriately for active travel modes providing safe pedestrian connections to the wider pedestrian network including along Albion Road;
- (c) Appropriate opportunities to promote public transport (bus and rail) have been taken up for the development and its residents;
- (d) A Framework Travel Plan is provided to encourage non car travel for future residents; and
- (e) The impact of development generated traffic on the operation of the highway network is not significant (safety or capacity) and there is no need to provide capacity improvements.

8.8 The Site is not located within any designated Habitat Special Protection Areas, Special Areas of Conservation; or Ramsar Sites. It is not in a site of Special Scientific Interest; an Area of Outstanding Natural Beauty, Conservation Area or National Park. Nor does it have any impact on designated heritage assets.

8.9 The appeal scheme is supported by a comprehensive suite of technical documents and reports. These demonstrate that the development of the Site would not have any unacceptable or adverse environmental impacts, which indicate that development should be restricted. Where deemed necessary and appropriate, planning conditions can be applied to ensure that suggested mitigation measures are secured.

8.10 It is demonstrated throughout the supporting documents, including the Design and Access Statement, that the level of development proposed is both acceptable in technical terms and also maximises the potential of the Site in accordance with the NPPF, delivering an attractive place for people to live and enjoy and therefore being wholly appropriate.

8.11 As this scheme is for outline planning permission, the matters to be reserved will include design, appearance, scale and landscaping. The future reserved matters application can ensure that these detailed aspects of the development are of the required high quality and comply with the detailed Development Plan policies on these matters. However, the appeal proposal demonstrates how there are no constraints to the delivery of 117 dwellings and open space.

- 8.12 As demonstrated within this Statement of Case, the appeal proposal fully accords with the Marden Neighbourhood Plan and Maidstone Borough Local Plan, and the NPPF. The proposal also complies fully with the Site allocation policy LPRSA295 in the emerging Maidstone Local Plan Review.
- 8.13 The Site is considered to have very strong sustainable credentials as a result of its location, the proposed development would provide much needed market and affordable homes in the area and would respect the existing landscape of the area. In accordance with paragraph 14 of the NPPF 2021, as the proposals fully accord with the development plan, planning permission granted without delay. We, therefore, respectfully request that the application be approved.
- 8.14 Draft Heads of Terms has been submitted in support of this appeal and the appellant is committed to advance and complete a S106 agreement prior to the determination of this appeal, and therefore, the seventh reason for the refusal of the application can be overcome.

Appendix A: Updated Affordable Housing Statement

Affordable Housing Statement

Land east of Albion Road and North of Copper Lane,
Marden, Maidstone Borough



Affordable Housing Statement

Outline application with some matters reserved (access only sought) for the removal of 2 former agricultural sheds and erection of up to 117no. dwellings and associated infrastructure including partial footways on Albion Road.

Land east of Albion Road and north of Copper Lane, Marden

Maidstone Borough

B.Yond Homes (formerly Rydon Homes)

June 2024

LPA REF: 23/504068/OUT

OUR REF: M23/0715-02.RPT

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Appendices

- Appendix 1 Correspondence with the
Homechoice Team – Housing Mix
- Appendix 2 Correspondence with the
Homechoice Team – Housing
Register Data
- Appendix 3 Gross-to-Net Affordable Housing
Delivery Calculations

Introduction

Section 1

- 1.1 This **Affordable Housing Statement** has been prepared by Tetlow King Planning on behalf of the Appellant, B.Yond Homes (formerly Rydon Homes), in respect of the appeal against Maidstone Borough Council to refuse planning permission for residential development at land east of Albion Road and north of Copper Lane, Marden.
- 1.2 Outline planning permission (with all matters reserved except access) is sought for up to 117 dwellings and associated infrastructure, of which **40% or up to 47 dwellings will be affordable**. The description of development as set out on the application forms is as follows:
- “Outline application with some matters reserved (access only sought) for the removal of 2 former agricultural sheds and erection of up to 117no. dwellings and associated infrastructure including partial footways on Albion Road.”*
- 1.3 For administrative purposes, the Local Planning Authority is Maidstone Borough Council (“Maidstone” or “the Council”) within the South East region. The appeal site is located within the Marden & Yalding council ward.
- 1.4 The proposed **40% affordable housing represents a policy compliant offer** which meets the policy expectation for 40% affordable housing as set out in policy LPRSP10(B) ‘Affordable Housing’ of the Local Plan Review (2021 to 2038). The proposed affordable housing will be secured through a Section 106 planning obligation.
- 1.5 The mix of dwelling sizes and types will be confirmed at the reserved matters stage; however, the outline application includes an indicative affordable housing mix (including terraced, semi-detached and detached dwellings, and bungalows) as follows:

Figure 1.1: Indicative Affordable Housing Mix

	1-bedroom	2-bedroom	3-bedroom	4+ bedroom
Number of dwellings	16	15	12	4
% of dwellings	34%	32%	26%	8%

Source: Rydon Homes

- 1.6 This indicative mix of dwelling sizes has been informed by discussions with officers from the Council's Homechoice Team during the scheme's development in 2022, with relevant correspondence reproduced at **Appendix 1**. The indicative mix broadly corresponds with the strategic mix expectations contained in the Council's Affordable and Local Needs Housing Supplementary Planning Document 2020.
- 1.7 This Affordable Housing Statement deals specifically with the topic of affordable housing and the weight to be attributed to it in the planning decision, in light of the evidence of need in Maidstone Borough. It considers the positive contribution that the proposed development can make towards meeting this need and tackling the affordability challenges that affects many of the Borough's residents.
- 1.8 This Statement takes account of a range of affordable housing indicators as well as consideration of national planning policy, performance against identified needs for affordable housing, affordability issues, and the Council's own corporate objectives. This Statement concludes there is a pressing need for the proposed affordable homes, which carries substantial weight in the planning balance.
- 1.9 It is important to note that the application site has been proposed as an allocation (reference LPRSA295) in the Council's recently adopted Local Plan Review. This indicates that the Council has already accepted the principle of development at this site, and that it has already been found sound by the Local Plan independent examining inspector. This appeal is made by an experienced housebuilder with the resources, expertise and commitment to bring forward housing as soon as possible at this site. As such, this site offers the opportunity to promptly deliver much-needed affordable homes and ensure that households in need spend less time waiting for an affordable home.
- 1.10 This Statement is an update to Tetlow King Planning's previous Affordable Housing Statement, dated August 2023, submitted with the original outline planning application. This updated Statement incorporates a range of updated data and updates to planning policy.

- 1.11 In preparing this Statement, Tetlow King Planning has liaised with the Council's Homechoice Team to obtain a range of data in respect of the Housing Register in Maidstone Borough. This correspondence is included at **Appendix 2** of this Statement.
- 1.12 Providing a significant boost in the delivery of housing, and in particular affordable housing, is a key priority for the Government. This is set out in the most up-to-date version of the National Planning Policy Framework ("NPPF"), the Planning Practice Guidance ("PPG"), the National Housing Strategy and the Government's Housing White Paper. Having a thriving active housing market that offers choice, flexibility and affordable housing is critical to our economic and social well-being.
- 1.13 This Affordable Housing Statement comprises the following six sections:
- Section 2 analyses the Development Plan and related policy framework including corporate documents;
 - Section 3 sets out the identified affordable housing needs in Maidstone Borough;
 - Section 4 examines past affordable housing delivery in Maidstone Borough against identified needs;
 - Section 5 covers a range of affordability indicators; and
 - Section 6 considers the key issues and recommends that the proposed development should be approved.

The Development Plan and Related Policies

Section 2

Introduction

- 2.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal should be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 2.2 At present, the relevant Development Plan in respect of affordable housing for the application site comprises the Maidstone Local Plan Review 2021 to 2038 (adopted March 2024) and the Marden Neighbourhood Plan 2017 to 2031 (made July 2020).
- 2.3 The Local Plan Review replaces the Maidstone Borough Local Plan (2017), although some of the adopted Local Plan 2017 site-specific allocations have been retained.
- 2.4 Other material considerations include the National Planning Policy Framework (2023), the Planning Practice Guidance (March 2014, ongoing updates), the Affordable and Local Needs Housing Supplementary Planning Document (adopted July 2020), and a range of corporate documents produced by the Council.

The Development Plan

Local Plan Review (2021 to 2038)

- 2.5 The Maidstone Local Plan Review covers the seventeen-year period from 2021 to 2038.
- 2.6 Meeting housing needs “*by delivering affordable housing*” is identified as a ‘Spatial Objective’ of the Local Plan Review at page 25.
- 2.7 Policy LPRSS1 ‘Maidstone Borough Spatial Strategy’ is an evolution of the overall strategy contained within the former Local Plan 2017. Page 33 outlines at paragraph 5.39 that it expects the provision of a minimum of 19,669 new dwellings between 2021 and 2038, through the granting of planning permissions and the allocation of sites. The Policy does not set a target for the delivery of affordable homes.
- 2.8 Policy LPRSP6 ‘Rural Service Centres’ identifies Marden as a rural service centre at page 92.

2.9 Policy LPRSP6(E) 'Marden' at page 106 concerns the settlement of Marden, setting a housing target amongst other expectations. The policy identifies the appeal site to be appropriate for the delivery of approximately 113 new homes under site allocation LPRSA295.

2.10 Regarding affordable housing, Policy LPRSP10(A) 'Housing Mix' states on page 138 and 139:

"Accommodation profiles detailed in the Strategic Housing Market Assessment 2021 (or any future updates) will be used to help inform developers to determine which house sizes should be delivered in urban and rural areas to meet the objectively assessed needs of the area. In relation to affordable housing, the council will expect the submission of details of how this information has been used to justify the proposed mix.

Where affordable housing is to be provided, developers should also take into consideration the needs of households on the council's housing register and discuss affordable housing requirements with the council's housing team at the pre-submission stage of the planning process".

2.11 Paragraph 7.16 of the Local Plan Review discusses the overall affordable housing need in Maidstone and its supporting evidence. It states on page 139:

"The Maidstone Strategic Housing Market Assessment 2021 supports the approach of seeking a proportion of dwellings to be provided on-site for affordable housing needs. The council has a net affordable housing need 8385 homes from 2022 to 2037, equivalent to 559 households each year. This is a significant need for the borough and a clear justification for the council to seek affordable dwellings through new development schemes. The Strategic Housing Market Assessment also indicates that the need for rented affordable housing makes up 75% of the overall affordable housing need of the borough, with the remaining 25% of affordable need arising from demand for affordable homeownership products" (emphasis added).

2.12 Pages 142 to 144 of the Local Plan Review outline policy LPRSP10(B) 'Affordable Housing' stating:

Policy LPRSP10(B) 'Affordable Housing'

1. *On major housing development sites or mixed-use development sites where 10 or more dwellings will be provided, or the site has an area of 0.5 hectares or more, the council will require the delivery of affordable housing.*
2. *The target rates for affordable housing provision within the following geographical areas, as defined on the policies map, are:*
 - a) *Greenfield development in mid and high value zones at 40%*
 - b) *Brownfield development in high value zone at 40%.*
 - c) *Development in the low value zone and brownfield development in the mid value zone will be expected to deliver an element of on-site affordable housing. If it can be demonstrated through an open book financial appraisal this is not viable, based on the construction costs based on delivering high quality design and public realm, then the developer shall make a proportionate off-site contribution to the delivery of affordable housing. Evidence of engagement with affordable housing funders and providers, including the council and Homes England as appropriate, should be submitted with the financial appraisal.*
3. *Affordable housing provision should be appropriately integrated within the site. In exceptional circumstances, and where proven to be necessary, off-site provision will be sought in the following order of preference:*
 - b) *An identified off-site scheme;*
 - c) *The purchase of dwellings off-site; or*
4. *A financial contribution towards off-site affordable housing. The indicative targets for tenure are:*
 - a) *75% Social and affordable rented.*
 - b) *25% intermediate or affordable home ownership*
5. *Where 25% of First Homes will not be adequate to meet the minimum 10% Affordable Home Ownership target set by the NPPF, then any shortfall can be met through the provision of First Homes or an alternative Affordable Home Ownership product.*
6. *Developers are required to enter into negotiations with the council's Housing Department, in consultation with registered providers, at the earliest stage of the application process to determine an appropriate tenure split, taking account of the evidence available at that time.*
 - a) *The council will seek provision of 20% affordable housing for schemes that provide for Use Class C3 retirement housing on greenfield mid to high value zones and brownfield sites in high value zones. C2 Use Class will not be expected to deliver affordable housing;*
 - b) *The council has set a zero affordable housing rate for fully serviced residential care homes and nursing homes;*
 - c) *Where it can be demonstrated that the affordable housing targets cannot be achieved due to economic viability, the tenure and mix of affordable housing should be examined prior to any variation in the proportion of affordable housing.*

2.13 The Local Plan Review identifies the application site as being within a high value zone, meaning **the Policy expects a minimum of 40% of the dwellings proposed to be affordable.**

2.14 The Local Plan Review sets out two monitoring indicators for Policy LPRSP10(B) on pages 362 and 363, which are set out within Figure 2.1 below:

Figure 2.1: Local Plan Review Monitoring Indicators

Indicator	Target	Trigger	Action
<p>M12</p> <p>Number and tenure of affordable homes delivered (including starter homes).</p>	<p>Number and tenure of affordable homes completed and consented per annum matches policy requirement.</p>	<p>Affordable housing delivery over phasing period (3-5 years) falls significantly below annual requirement.</p> <p>Tenure of affordable housing delivered over phasing period (3-5 years) deviates significantly from indicative policy target.</p>	<p>Work with Registered Providers to secure greater delivery or change to tenure of delivery.</p> <p>Promote council owned sites for affordable housing. Review interpretation of approach regarding off-site contributions.</p>
<p>M13</p> <p>Affordable housing as a proportion of overall housing delivery in geographical policy areas consented and completed relative to policy LPRSP10(B) requirements. The geographical areas are: Low Mid High Springfield</p>	<p>LPRSP10(B) percentage requirements achieved on all qualifying developments in geographical areas.</p>	<p>Proportion of affordable housing delivered in the respective geographical areas over phasing period (3-5 years) deviates significantly from indicative policy targets.</p>	<p>Review approach towards affordable housing provision, including with Registered Providers.</p>

Source: Local Plan Review

2.15 Policy LPRSP13 'Infrastructure Delivery' sets out on pages 181 to 182 that where there are competing demands for contributions towards the delivery of infrastructure, secured through section 106 legal agreements, the Council will prioritise these demands in the order listed below, with affordable housing at the top of the list:

1. Affordable housing;
2. Transport;
3. Open space;
4. Education;

5. Health;
 6. Community facilities;
 7. Public realm;
 8. Waste management;
 9. Public services; and
 10. Libraries.
- 2.16 Policy LPRSA295 'Land at Copper Lane and Albion Road, Marden' concerns the appeal site, proposing an allocation for the development of approximately 113 dwellings on pages 259 to 260. The Policy does not include any site-specific requirements concerning affordable housing.
- 2.17 Policy LPRHPU6 concerns affordable housing need on rural exception sites, including first homes. This is not applicable to the proposed development which is not advanced as a rural exception site.

Marden Neighbourhood Plan 2017 to 2031 (made July 2020).

- 2.18 The Marden Neighbourhood Plan 2017 to 2031 ("the NDP") was drafted in parallel with the Local Plan. At page 37 the NDP acknowledges the need for affordable housing within Marden, stating:

"Marden's need for affordable housing has been proven through a series of Housing Needs Surveys and has been consistently supported by residents (and others with Marden connections) at Neighbourhood Plan Open Days".

- 2.19 The NDP states that it is unlikely that all need for affordable housing can be met through the recent housing development sites, and therefore includes a policy for affordable housing on rural exception sites: Policy In5 'Affordable Housing on Rural Exception Sites'.
- 2.20 This Policy is not relevant to the proposal, save for acknowledging the extent of affordable housing need in Marden. The NDP refers to the Local Plan for the more general affordable housing policy.

Supplementary Planning Documents

Affordable and Local Needs Housing Supplementary Planning Document (adopted July 2020)

- 2.21 The Affordable and Local Needs Housing SPD (“ALHN SPD”) was prepared in 2020 pursuant to the former Local Plan 2017, although paragraph 2.13 at page 14 of the adopted Local Plan Review confirms it has been ‘saved’ and remains in effect.
- 2.22 Paragraph 1.8 of page 3 of the ALHN SPD states that the ALHN SPD “...*is intended to maximise the delivery of truly affordable homes in the borough*”.
- 2.23 Page 5 of the ALHN SPD acknowledges at Paragraph 2.9 the undersupply of affordable housing in the Borough:
- “Between 2011 – 2019 the Borough delivered 1,744 new affordable homes, of which 63 were delivered on rural exception sites for local needs housing. This equates to 218 units per year which is below the target of 322 units per year (identified in the [Strategic Housing Market Assessment] Jan 2014) and demonstrates the need to aim to provide more affordable housing units”.*
- 2.24 In terms of the type of affordable housing, paragraph 5.5 of the ALHN SPD states on page 11:
- “Across the Borough as a whole, it is estimated that some 67% of need is for social or affordable rent tenures, whilst around 33% is for intermediate housing. Smaller (one and two bedroom) dwellings account for between 60% and 70% of the need with larger (three and above) dwellings accounting for between 30% and 40%”.*
- 2.25 In relation to Policy SP19 ‘Housing Mix’ of the Local Plan, paragraph 6.5 of the ALHN SPD advises on page 14 that the most up-to-date Strategic Housing Market Assessment (“SHMA”) should be used to help inform the housing mix proposals for affordable housing. The Maidstone Strategic Housing Market Assessment 2021 Update is the most recent SHMA and is discussed in detail within Chapter 3 of this Statement.
- 2.26 Paragraph 1.15 of the Maidstone SHMA 2021 Update provides strategic conclusions on the mix of housing needed and is incorporated into Figure 2.2 below.

Figure 2.2: Strategic conclusions on the mix of housing needed in the Borough

	Social / Affordable Rented	Affordable Home Ownership	Market
1-bed	30-40%	25%	5%
2-bed	30-35%	40%	25%
3-bed	25-30%	25%	45%
4-bed	10%	10%	25%

Source: Maidstone Strategic Housing Market Assessment 2021 Update

- 2.27 The proposal is therefore expected to provide a mix of affordable units on site to comply with the mix outlined in Figure 2.2. As Figure 1.1 in Section 1 of this Statement illustrates, the proposed indicative affordable housing mix broadly corresponds with this above mix.
- 2.28 Page 16 of the SPD indicates at paragraph 7.4 that *“in all cases, it is expected that new affordable housing delivered under Policy SP20 will be delivered without the input of public subsidy, which includes grant from Homes England”*.
- 2.29 Paragraph 8.3 of the SPD outlines at page 19 *“the Council’s preference is for social rent and this will be the initial assumed tenure for the rented units. However, it is accepted that the delivery of social rent has been difficult and that the most common rented tenure being delivered is affordable rent. It should also be noted that the Economic Viability Report used to support the Local Plan assumed a tenure split of 70% affordable rent / 30% intermediate and did not include any social rent”*.
- 2.30 The SPD expects affordable housing to be *“...fully integrated mixed tenure housing schemes within the market housing and will support a reasonable level of clustering, particularly for any proposed flatted units, to enable small self-contained blocks. The location of the units is to be agreed with the Housing Delivery Team at the pre-application stage”* (paragraph 9.2).
- 2.31 Further, the SPD acknowledges management issues with mixed tenure blocks of flats, and advises at paragraph 9.4, *“where flats are provided on site as part of the affordable housing package then these should be in separate blocks with the freehold transferred to the RP. This will enable the RPs to set service charges which are affordable to their tenants/purchasers”*.
- 2.32 Section 10 of the SPD outlines expected design standards for affordable homes, such as space and accessibility standards.

- 2.33 Matters such as the integration, design and accessibility standards, and levels of dedicated car parking for affordable homes are matters of detailed design that will be considered at the Reserved Matters stage in due course.
- 2.34 Paragraphs 16.3 and 16.4 of the SPD encourage developers to make contact with the Council's Housing Department. This has occurred, and a record of the Housing Department's preferred affordable housing mix is included in **Appendix 1**.

Corporate Documents

- 2.35 The Council's corporate documents identify the delivery of affordable housing as a high corporate priority of Maidstone Borough Council. These include the following documents:
- a. Maidstone Housing Strategy 2016 to 2020;
 - b. Draft Maidstone Housing Strategy 2021 to 2026 (this remains in draft at the time of writing in June 2024);
 - c. Homelessness and Rough Sleepers Strategy 2019 to 2024; and
 - d. Maidstone Borough Council Strategic Plan 2019 to 2045.

Conclusions on the Development Plan and Related Policies

- 2.36 The Development Plan for the Council currently comprises the Maidstone Local Plan Review 2021 to 2038 (adopted March 2024) and the Marden Neighbourhood Plan 2017 to 2031 (made July 2020).
- 2.37 The evidence set out in this section clearly highlights that within adopted policy, emerging policy and a wide range of other plans and strategies, providing affordable housing has long been established as, and remains, a key issue which urgently needs to be addressed within the Borough.
- 2.38 The proposed development commits to meeting the principal Local Plan expectation for 40% of the total units to be affordable housing, as set out in Policy LPRSP10(B) of the Local Plan Review.
- 2.39 The delivery of up to 47 affordable homes at the appeal site will make a significant contribution towards the annual affordable housing needs of the Borough, particularly when viewed in the context of past rates of affordable housing delivery which is considered in more detail in Section 4 of this statement.

Affordable Housing Needs in Maidstone Borough

Section 3

- 3.1 As set out in the supporting text of the Local Plan Review, it is important to consider the objectively assessed need for affordable housing within the most up-to-date assessment of local housing need. This is contained in the Maidstone Strategic Housing Market Assessment 2021 Update (which is part of the evidence base for the Local Plan Review). This assessment seeks to identify the unconstrained (or “policy-off”) level of affordable housing need in Maidstone.

Maidstone Strategic Housing Market Assessment 2021 Update

- 3.2 The Maidstone Strategic Housing Market Assessment 2021 Update (the “SHMA 2021 Update”) was prepared by consultants Icení Projects and Justin Gardner Consulting, and forms part of the evidence base for the Local Plan Review. An earlier version was prepared in 2019; paragraphs 2.8 to 2.8 at pages 7 and 8 explain that the SHMA 2021 Update reflects changes in national planning policy since then.
- 3.3 Section 5 sets out the assessment of affordable housing need for the eighteen-year period from 2019 to 2037. The assessment identifies separate need figures for affordable rented housing and affordable home ownership options (in accordance with the current National Planning Policy Framework). Table 5.14 at page 61 of the SHMA 2021 Update sets out the net affordable rented housing need in Maidstone, which equates to 422 affordable rented dwellings per annum between 2019 and 2037.
- 3.4 Table 5.15 at page 61 shows that the current or existing housing need has more than doubled since the publication of the last SHMA (2014); the newly arising need from new and existing households has fallen slightly and the supply of re-lets has fallen by almost one quarter.
- 3.5 In addition, the need for affordable home ownership now forms a separate element of the calculation of affordable housing need. Table 5.19 at page 65 of the SHMA 2021 Update sets out the net affordable home ownership need in Maidstone for the period, which equates to 137 affordable home ownership dwellings per annum.

- 3.6 Paragraph 5.20 at page 66 combines the affordable rented and the affordable home ownership need figures, which total **559 affordable dwellings per annum between 2019 and 2037.**

Summary of affordable housing need

- 3.7 There is a significant need for affordable housing in Maidstone, as identified in The SHMA 2021 Update. The report identifies a need for 559 affordable dwellings per annum between 2019 and 2037.
- 3.8 The significant increase between the most recent housing assessments can be explained by the fact that the SHMA 2021 Update also assesses the need for affordable home ownership products (as required in the latest NPPF) and takes account of more recent statistical inputs which show a greater current/existing need for affordable housing and a slower rate of re-lets of existing stock.
- 3.9 Section 4 of this Statement goes on to consider the extent to which these needs are being met in Maidstone Borough.

Affordable Housing Delivery in Maidstone Borough

Section 4

- 4.1 This section reviews the past record of affordable housing delivery in Maidstone Borough since the start date of the 2021 SHMA Update period in 2019.
- 4.2 The past affordable housing delivery in Maidstone Boroughs against the 2014 SHMA is set out in the original Affordable Housing Statement, submitted with the outline application in August 2023.

Past Affordable Housing Delivery

- 4.3 Figure 4.1 below illustrates the net delivery of affordable housing in Maidstone, compared with overall housing delivery, in the four years since the start of the 2021 SHMA Update period in 2019. Affordable housing additions are net of Right to Buy losses in the Borough (the gross-to-net calculations are set out at **Appendix 3**).

Figure 4.1: Net Additions to Affordable Housing Stock, 2019/20 to 2022/23

Monitoring Year	Net Overall Housing Completions	Net Affordable Housing Additions	Net Affordable Housing Additions as a %age of Net Overall Housing Completions
2019/20	1,424	344	24%
2020/21	1,446	402	28%
2021/22	1,627	380	23%
2022/23	1,064	277	26%
Total	5,561	1,403	25%
Average	1,390	351	25%

Source: DLUHC Live Tables; Private Registered Provider Statistical Data Returns

- 4.4 Between 2019/20 and 2022/23, a total of 5,561 dwellings were delivered in Maidstone Borough, equivalent to 1,390 dwellings per annum. Of these, 1,403 dwellings were affordable tenures, equivalent to 351 affordable dwellings per annum. This equates to 25% net affordable housing delivery which is below the 30% to 40% policy expectation in the Local Plan Review.

Affordable Housing Delivery Compared to Affordable Housing Needs

SHMA 2021 Update: 559 affordable dwellings per annum between 2019/20 and 2036/37

- 4.5 Figure 4.2 below illustrates net affordable housing delivery compared to the affordable housing need of 559 net affordable dwellings per annum between 2019/20 and 2036/37, as set out in the SHMA 2021 Update.

Figure 4.2: Net Additions to Affordable Housing Stock Compared With Needs Identified in the SHMA 2021 Update

Monitoring Year	Net Affordable Housing Additions	SHMA 2021 Update Identified Need: 559 dpa	Shortfall	Percentage of Needs Met
2019/20	344	559	-215	62%
2020/21	402	559	-157	72%
2021/22	380	559	-179	68%
2022/23	277	559	-282	50%
Total	1,403	2,236	-551	63%
Average	351	559	-138	63%

Source: See Figure 4.1 above; SHMA 2021 Update

- 4.6 Since the start of the SHMA 2021 Update period in 2019, affordable housing completions (net of Right to Buy) have averaged 351 net affordable dwellings per annum, against a significantly higher need of 559 net affordable dwellings per annum. A shortfall of -551 affordable dwellings has already arisen over the four-year period, equivalent to an average annual shortfall of -138 affordable dwellings. Overall, 63% of the identified need has been met.

Conclusions on Affordable Housing Delivery

- 4.7 The above evidence demonstrates that Maidstone Borough has achieved a significant number of new affordable homes since the start of the adopted Local Plan period. This contrasts with some other authorities in the South East who have failed to maintain up-to-date Development Plans and are not delivering anywhere near enough affordable housing.
- 4.8 That said, it is vital that affordable housing can come forward at allocated sites to maintain delivery and deal with existing affordable housing shortfalls.

- 4.9 **The scale of the identified need means that there remains an ongoing and sizeable unmet need for affordable homes in the Borough.** Against the need to deliver 559 affordable dwellings per annum between 2019/20 and 2036/37 identified in the SHMA 2021 Update, a shortfall of -551 affordable dwellings has already arisen in the last four years alone.
- 4.10 In this context, it is important that Maidstone Borough Council continues to take every opportunity to boost the supply of affordable homes, to help to address existing unmet needs as fast as possible. This includes on existing Local Plan allocations, which have recently been found sound at examination, and where the Council already accepts the principle of development.
- 4.11 In light of the identified level of unmet need, there can be no doubt that the delivery of 40% affordable housing or up to 47 affordable dwellings through the proposed development will make an important contribution to the affordable housing needs of Maidstone Borough.

Affordability Indicators

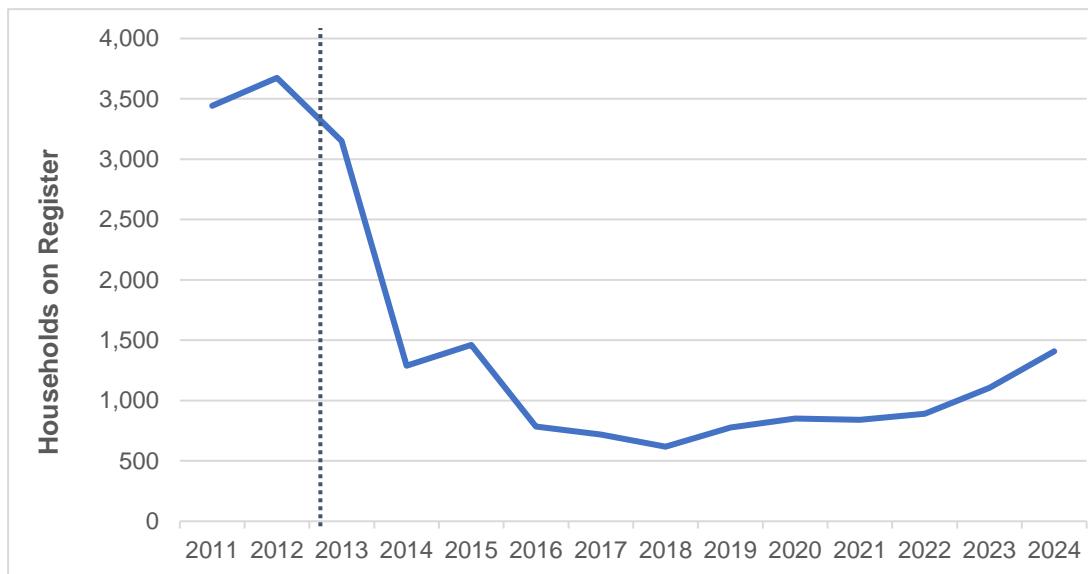
Section 5

- 5.1 The PPG recognises the importance of giving due consideration to market signals as part of understanding affordability. This is in the context of plan making.
- 5.2 This Affordable Housing Statement will continue to use the former Maidstone Local Plan period of 2011/12 to 2030/31 for the below analysis, as this was the period used in the Affordable Housing Statement submitted with the original application.

Housing Register

- 5.3 The Council's Homechoice Team has confirmed that **on 9 May 2024, there were 1,408 live applications on the Housing Register** in Maidstone, all of whom have met the qualification criteria under the Housing Allocation Scheme and have been accepted by the Council as being in housing need.
- 5.4 Figure 5.1 below illustrates the extent of the Housing Register since the start of the former adopted Local Plan period in 2011. The number of applicants reduced sharply between 2013 and 2014; this coincided with the introduction of a new Housing Allocation Scheme in April 2013 which applies criteria for local connection and housing need. Despite the introduction of these more restrictive qualification criteria, the Housing Register has increased by 128% since 2018 (when the Register stood at 618 households).

Figure 5.1: Housing Register, 2011 to 2024



Source: Department for Levelling Up, Housing and Communities and Maidstone Borough Council (see **Appendix 2**)

- 5.5 Strikingly, the Housing Register has increased by 303 households (or 27%) in the last 13 months alone, between April 2023 when it stood at 1,105 households, and the most recent count in May 2024 of 1,408 households.

Local Preferences in Marden

- 5.6 The Council has confirmed that of the 1,408 live Housing Register applications, **194 households have selected Marden as one of their preferred areas**. This is equivalent to **14% of the entire register**. Although applicants are not restricted to placing bids in their area of preference, this figure is indicative of the number of households who would consider an affordable home in the Marden local area.

Waiting Times

- 5.7 Information provided by the Council shows that successful applicants for affordable housing face lengthy waits to be housed, with the waiting time varying depending upon the dwelling size that is required.
- 5.8 Figure 5.2 below shows that over the 2023/24 monitoring period, the average wait to be housed in an affordable home in Maidstone Borough ranges from 10 months for a 2-bed apartment, to as long as 38 months for a 4+ bedroom house.

Figure 5.2: Waiting Times for Affordable Housing in Maidstone, March 2023 to March 2024

Type of affordable property	Average waiting time
1-bed affordable dwelling	12 months
2-bed affordable dwelling	10 months
3-bed affordable dwelling	31 months
4+ bed affordable dwelling	38 months

Source: Maidstone Borough Council (see **Appendix 2**)

- 5.9 These are average figures, so it is possible that some households have been waiting longer than the times indicated above. The figures also only capture the wait times for successful applicants, those unsuccessful applicants will by proxy face considerably longer waiting times. The longest waits are for family-sized housing of three- and four-bedrooms.

Bids and Lettings in Marden

- 5.10 The Council is part of the 'Kent Homechoice' choice based lettings scheme, under which applicants can bid for affordable homes advertised on an online portal. Figure 5.3 below demonstrates the average number of bids received per property in Marden over the 2023/24 monitoring period for a range of types of affordable property.

Figure 5.3: Bids Per Property in Marden, March 2023 to March 2024

Type of affordable property	Number of properties advertised	Average bids per property
1-bed affordable dwelling	12	24
2-bed affordable dwelling	8	10
3-bed affordable dwelling	1	26
4+ bed affordable dwelling	1	5

Source: Maidstone Borough Council (see **Appendix 2**)

- 5.11 Figure 5.3 demonstrates that between 1 April 2023 to 31 March 2024 there were 22 affordable housing lettings. There were averages of 24 bids per 1-bed affordable dwelling put up for let in Marden, 10 bids per 2-bed affordable dwelling, and 26 bids per 3-bed affordable dwelling. Just one 3-bed affordable dwelling and one 4+ bed affordable dwelling was let at all over the period in Marden.

Temporary Accommodation

- 5.12 DLUHC statutory homelessness data highlights that on 31 March 2023, there were 265 households housed in temporary accommodation by the Council. This is a 62% increase from the 2022 figure of 162 households.
- 5.13 Of these 265 households, 42% were households with children. The council has a responsibility to house these households.

Homelessness

- 5.14 DLUHC statutory homelessness data shows that in the 12 months between 1 April 2022 and 31 March 2023, the Council accepted 596 households in need of homelessness prevention duty¹, and a further 427 households in need of relief duty² from the Council.
- 5.15 Furthermore a 2017 report by the National Audit Office (“NAO”) found that *“The ending of private sector tenancies has overtaken all other causes to become the biggest single driver of statutory homelessness in England.”*

Help to Buy Register

- 5.16 Further evidence in respect of the need for affordable housing across Maidstone Borough is provided in information from Help to Buy South.
- 5.17 Help to Buy South is one of three agents appointed by the Government to manage the Help to Buy initiative as well as other affordable home ownership options including shared ownership. Although the Help to Buy Equity Loan scheme closed at the end of 2022, the extant data from the Help to Buy South system helps to identify the number of households who have registered an interest in affordable home ownership in Maidstone Borough.
- 5.18 The Help to Buy Register shows that on that on 24 March 2023, **1,776 households were seeking a shared ownership home in Maidstone Borough.**

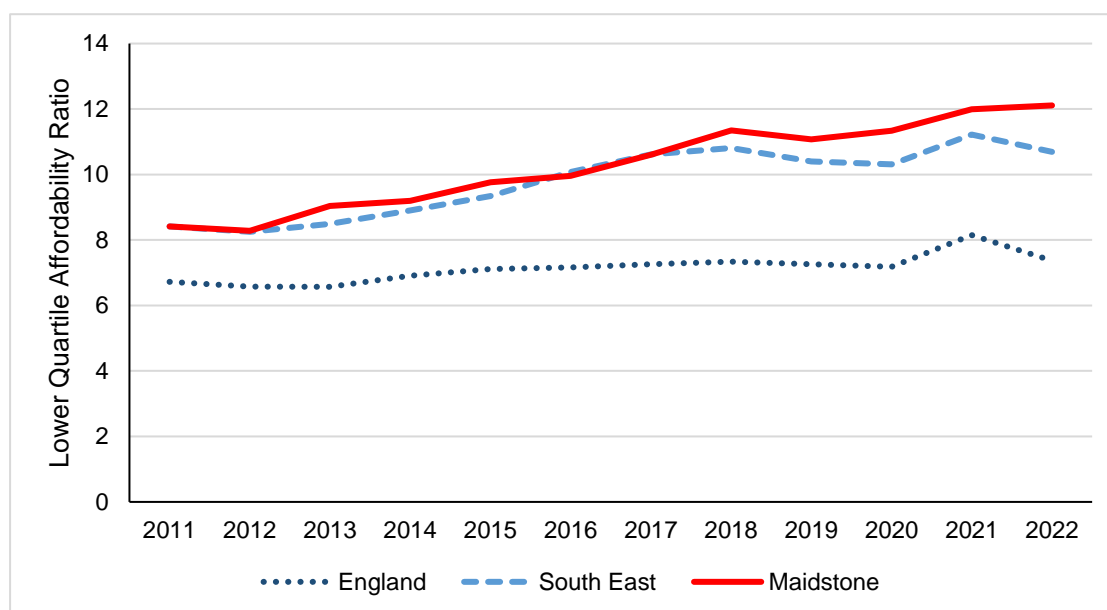
¹ The Prevention Duty places a duty on housing authorities to work with people who are threatened with homelessness within 56 days to help prevent them from becoming homeless. The prevention duty applies when a Local Authority is satisfied that an applicant is threatened with homelessness and eligible for assistance.

² The Relief Duty requires housing authorities to help people who are homeless to secure accommodation. The relief duty applies when a Local Authority is satisfied that an applicant is homeless and eligible for assistance.

Affordability Ratios

- 5.19 Affordability ratios illustrate the relationship between average house prices and average workplace-based earnings, i.e. how much does a house cost in relation to the earnings of somebody working in Maidstone Borough? For context, mortgage lending is typically offered on up to 4.5 times earnings (and may be lower subject to individual circumstances).
- 5.20 Figure 5.4 illustrates the lower quartile affordability ratio (representative of the 'entry level' of the housing market) in Maidstone Borough. **In 2022 the lower quartile house in the Borough cost 12.11 times lower quartile earnings;** this ratio is 13% higher than in the South East (10.69 times earnings) and 64% higher than in England as a whole (7.37 times earnings). It is also 169% higher than the 'benchmark' of 4.5 times earnings for mortgage lending. Clearly, without access to substantial savings, equity, or inherited wealth, households face a serious challenge in accessing housing on the open market.

Figure 5.4: Lower Quartile Affordability Ratio, Maidstone Borough, 2011 to 2022



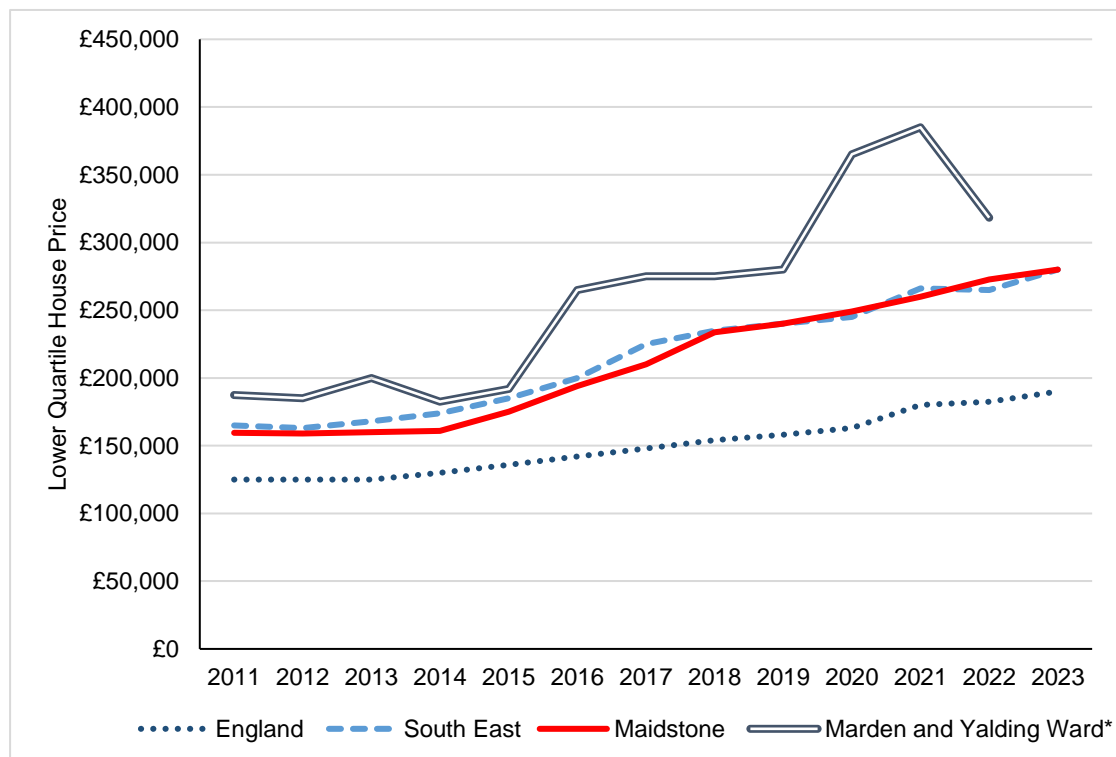
Source: Office for National Statistics

- 5.21 Since the base date of the adopted Local Plan in 2011, the lower quartile affordability ratio in Maidstone Borough has worsened by 44%. This is faster than in the South East (27% increase) and in England as a whole (10% increase). As figure 5.4 shows, the lower quartile affordability ratio in Maidstone tracked around that of the South East region until around 2017, after which it overtook the regional figure and has remained higher ever since.

Lower Quartile House Prices

- 5.22 Figure 5.5 below illustrates lower quartile house sale prices in Maidstone Borough and in the Marden & Yalding council ward. In 2023, the lower quartile selling price in Maidstone was £280,000. This is £90,000 (or 47%) more than the England lower quartile selling price of £190,000.
- 5.23 In Marden & Yalding Ward in 2022, the lower quartile selling price was £318,360, which is £45,610 (or 17%) higher still than in Maidstone Borough in 2022. The lower quartile selling price here is also £53,360 (or 20%) higher than in the South East, and £135,860 (or 74%) more than in England as a whole.

Figure 5.5: Lower Quartile House Prices, Maidstone Borough and Marden & Yalding Ward, 2011 to 2023



Source: House Price Statistics for Small Areas

*Note: Lower Quartile House Price data is not available at council ward level for 2023

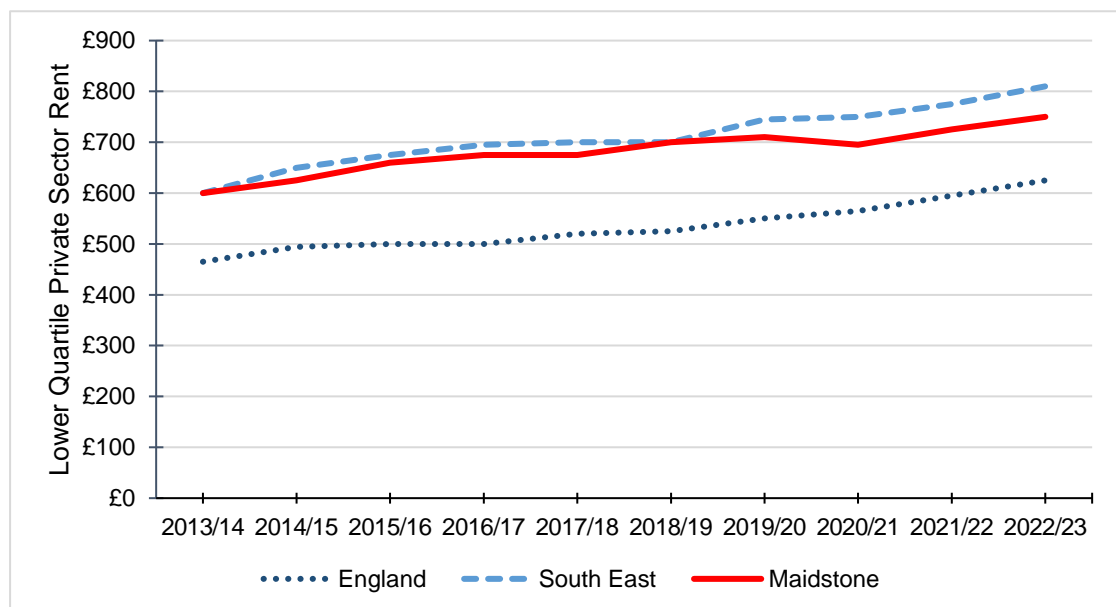
- 5.24 Since the base date of the former adopted Local Plan in 2011, the lower quartile house price in Maidstone Borough has increased by 75%; this is faster than in the South East (70% increase) and England as a whole (52% increase). In Marden & Yalding Ward, the lower quartile house price increased by 70% between 2011 and 2022, in line with the trend seen across Maidstone Borough as a whole.

Lower Quartile Private Sector Rents

- 5.25 Figure 5.6 below illustrates lower quartile private sector monthly rents for Maidstone Borough from 2013/14 onwards (the first year for which rental data is available). **In 2022/23, the lower quartile private sector monthly rent in Maidstone was £750.** This is:

- £60 (or 7%) cheaper than the South East lower quartile rent of £810; but
- £125 (or 20%) more than the England lower quartile rent of £625.

Figure 5.6: Lower Quartile Private Sector Rents, Maidstone Borough, 2011 to 2022



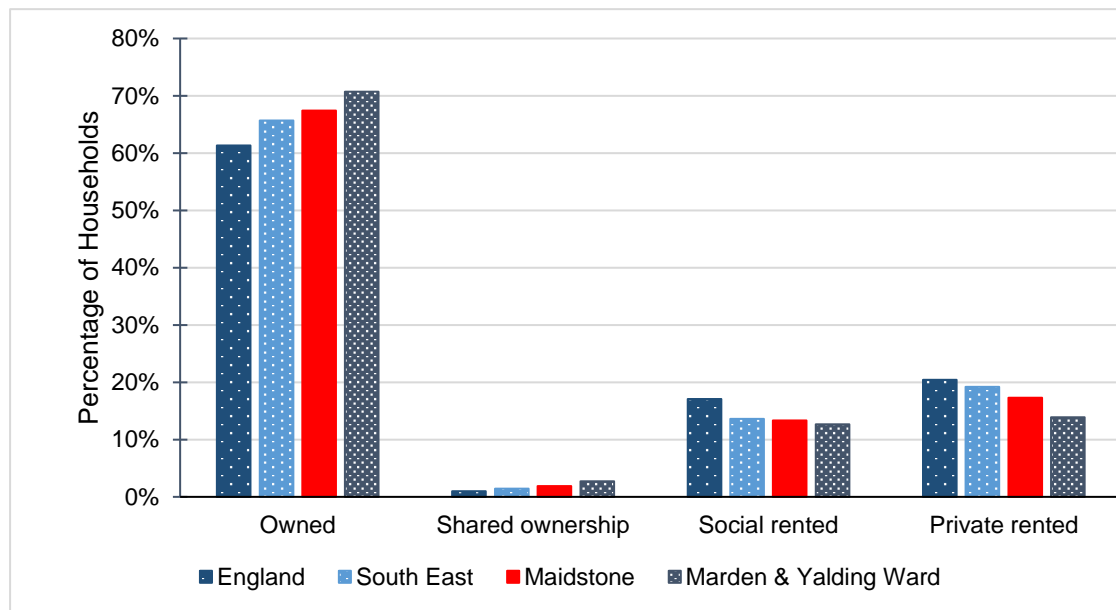
Source: Office for National Statistics and Valuation Office Agency

- 5.26 Since the base date of the adopted Local Plan in 2011, the lower quartile private sector rent in Maidstone Borough has increased by 25%; this is slower than in the South East (35% increase) and England as a whole (34% increase) but the rents payable remain well above the national lower quartile figure. The lower quartile rent in Maidstone fell slightly between 2019/20 and 2020/21 but since then has continued to increase at a similar rate to the South East and England.

Tenure

- 5.27 The 2021 Census shows that the tenure profile of Maidstone Borough is similar to that of the South East region, but leans more towards home ownership and away from rented tenures when compared with England as a whole. In Maidstone, home ownership accounts for 67% of households (compared with 61% in England) and social renting accounts for 13% of households (compared with 17% in England)

Figure 5.7: Tenure, Maidstone Borough and Marden & Yalding Ward, 2021



Source: Census 2021. Households living rent free not shown as these account for <1% of households at all levels.

- 5.28 Similar trends can be seen in Marden & Yalding Ward, where home ownership accounts for 71% of households and social renting accounts for 13% of households.
- 5.29 Shared ownership accounts for a limited proportion of households at all geographic levels, at 1% in England, 2% in Maidstone and 3% in Marden & Yalding Ward.

Conclusions on Affordability Indicators

- 5.30 As demonstrated through the analysis in this section, there are serious housing affordability challenges in Maidstone Borough, in common with the South East region, which are characterised by increasing waiting lists, high housing costs and worsening affordability ratios. The Marden local area is an expensive part of the Borough.
- 5.31 In the context of such significant pressure in the housing market, it is important that more affordable homes are delivered (for rent and for home ownership) to assist those who are currently experiencing the real-life impacts of the affordability crisis as soon as possible, and to reduce the time spent waiting for an affordable home.

Conclusions

Section 6

- 6.1 To recap, the Appellant, B.Yond Homes (formerly Rydon Homes), seeks outline planning permission (with all matters reserved except access) for the development of up to 117 dwellings, of which 40% or up to 47 dwellings will be affordable, at land east of Albion Road and north of Copper Lane, Marden, in Maidstone Borough. This level of provision meets the requirements of the Local Plan Review policy LPRSP10(B). The site benefits from an allocation in the Local Plan Review (reference LPRSA295).
- 6.2 This section draws the analysis in this Statement together to reach conclusions on three key issues, namely the existing housing shortfall; the affordability challenge in Maidstone; and the positive contribution that the proposed development will make towards meeting the housing needs of residents in Maidstone Borough.

Key issue 1: Tackling the Existing Affordable Housing Shortfalls

- 6.3 The analysis of affordable housing delivery in Section 4 of this Statement shows that there have been shortfalls in the delivery of affordable housing in Maidstone when compared with identified needs.
- 6.4 Against the affordable housing need of 559 net affordable dwellings per annum between 2019/20 and 2036/37 as set out in the SHMA 2021 Update, a shortfall of -551 affordable dwellings has arisen over the first three years alone, and only 63% of the identified need has been met.
- 6.5 It is important to note that the SHMA 2021 Update identifies a much higher level of affordable housing need than the previous SHMA 2014, because it takes account of the latest definition of affordable housing contained in the NPPF and identifies the need for affordable home ownership products as a separate element of housing need. The SHMA 2021 Update is also calculated using more recent statistical inputs than in the previous 2014 SHMA.

- 6.6 The Council is making progress towards meeting its affordable housing needs. However, because the identified need has increased significantly between the 2014 and 2021 iterations of the SHMA, it is vital to boost the supply of affordable housing so the Council stands the best chance of recovering past shortfalls and meeting its affordable housing need to the greatest possible extent.

Key issue 2: Responding to the Affordability Challenge

- 6.7 Like many authorities in the South East, Maidstone Borough Council faces serious affordability challenges as exemplified by the following indicators:
- a. A housing register of 1,408 households on 9 May 2024, all of whom have been accepted by the Council as having an affordable housing need and a demonstrable local connection to Maidstone Borough;
 - b. Of these, 194 households have expressed a locational preference for Marden (i.e. 14% of the Register);
 - c. Lengthy waiting times for affordable housing of up to 31 months for a three-bed affordable home and 38 months for a four-bed affordable home;
 - d. A Help to Buy register of 1,776 households on 24 March 2023;
 - e. A lower quartile affordability ratio of 12.11 which is higher than the national and South East ratios, and far out-of-reach for households without access to substantial savings or inherited wealth;
 - f. Lower quartile house prices in Maidstone Borough of £280,000 and £318,360 in Marden & Yalding ward, both in excess of the national lower quartile house price;
 - g. Lower quartile private sector rents of £750, or £125 more than in England;
 - h. A tenure split in Marden and Yalding Ward that skews towards home ownership and away from rented tenures, when compared with the national tenure split.
- 6.8 All these factors combine to create a challenging situation for anybody in need of affordable housing to rent or to buy in the Borough. By contrast, the provision of up to 47 affordable homes for rent and for affordable home ownership, secured through a Section 106 agreement, provides eligible households with reduced housing costs; an energy-efficient, high quality and modern home; and greater security of tenure than in the private rented sector.

Key issue 3: The Positive Contribution of More Affordable Housing

- 6.9 As the Local Plan Review demonstrates, the delivery of affordable housing is an important priority of the Council. Whilst some other authorities in the South East are relying upon dated Development Plans and delivering low levels of affordable housing, Maidstone Borough Council has progressed a new Local Plan which offers a plan-led route towards meeting the Borough's pressing housing needs.
- 6.10 The proposed development offers the opportunity to deliver up to 47 affordable homes to help meet identified needs. This site *alone* could contribute the equivalent of 8% of the annual need for 559 affordable dwellings set out in the SHMA 2021 Update.
- 6.11 In light of the lengthy and increasing Housing Register; the extent of local preferences, and the lengthy Help to Buy Register, there can be little doubt that each of the (up to) 47 proposed affordable dwellings will be occupied by a household in need.
- 6.12 In determining the original application, the Council had the opportunity to take positive action to address the housing challenge in Maidstone, through the grant of planning permission for more affordable homes. Regrettably, the Council did not do this.
- 6.13 The proposed development comes forward on an identified allocation site (and found sound by the examining Inspector); where the principle of development is accepted by the Council; and where there is a leading housebuilder that is committed to bringing forward these much needed affordable homes as soon as possible.

Conclusions on the weight to be attributed to the proposed affordable housing

- 6.14 The proposed development will make a substantial contribution to the delivery of affordable housing, through the provision of up to 47 affordable homes, or 40% of the total number of dwellings, to be secured through a Section 106 agreement.
- 6.15 The benefit of new affordable housing will be significant. Improving the supply of affordable homes will mean that households needing affordable housing will spend less time on the waiting list and in unsuitable accommodation. This will improve the lives of those real households in Maidstone Borough who will benefit from the provision of high quality, affordable homes that meet their needs.
- 6.16 The proposed development will also mean the Council will be better placed to address the most severe housing issues such as those households facing crisis through homelessness or forced to turn to temporary accommodation.

6.17 In summary, the proposed development will:

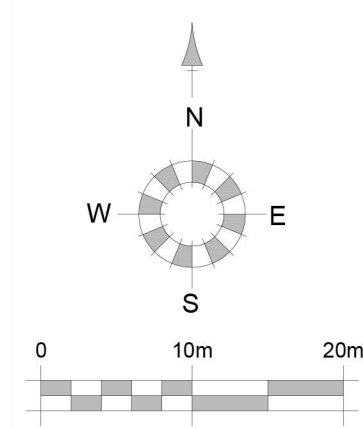
- a. Help the Council to meet its identified affordable housing need and recover past shortfalls as soon as possible;
- b. Meet the needs of a wide range of households including those in priority need and those seeking to purchase but who are currently prevented from doing so; and
- c. Deliver tangible benefits through better housing for real people in real need, now.

6.18 Tetlow King Planning therefore recommends that the proposed affordable housing is an important and weighty material consideration that should carry **at least substantial weight in the planning balance**. Allowing this appeal without delay will facilitate the prompt delivery of these much-needed new homes.

Appendix B: Green Infrastructure/ Policy Area Compliance Plan

Public Open Space Assessment : Based on 300 People	Local Plan Policy (DM19) :	Local Plan Review Policy (LPRINFI) :	Draft Local Plan Review (LPRSA 275) :	Proposed Layout SK25C :
Amenity Green Space	0.21	0.21		0.82 Ha (2)
Provision for Children and Young People (C&YP)	0.075 (0.25 Req.)	0.075 (0.25 Req.)	Not less than 0.3 Ha useable green space	0.5 Ha (3 & 4)
Allotments and Community Gardens	0.06	0.06		0.25 Ha
Publicly Accessible Outdoor Sports	0.48	0.48	Not less than 1.25 Ha open space	0
Natural and Semi Natural Areas of Open Space Including Ponds / Water courses and Ecology	1.95	1.95		1.47 (Ponds, 5 & POS)
	2.775	2.775	1.25 / 1.55	3.04

Key Plan :	
	Development Boundary
	Ownership Boundary
	Net Developable Area
	Community Orchards
	Pond/New Basin/Watercourse
	Useable Open Space
	Public Open Space (POS)



Public Open Space :	
Site Area (Ownership)	5.98 Ha
Net Developable Area	2.42 Ha
Ponds / New Basin / Watercourse	0.42Ha
Greenway 1 :	0.52 Ha
Amenity Green Space 2 :	0.82 Ha
Open Space 3 :	0.23 Ha
Useable Open Space 4 :	0.27 Ha
Dedicated Ecology Area 5 :	0.06 Ha
Community Orchards	0.25 Ha
Public Open Space (POS - Remainder)	0.99 Ha
	5.98 Ha
Population 2.4 persons x 117 = 281 people (rounded)	
Density 117 / 5.98 = 19.56 Dwellings/Ha	

Preliminary

Appendix C: Technical Note: Ecology Response

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8372: LAND EAST OF ALBION ROAD & NORTH OF COPPER LANE, MARDEN

TECHNICAL NOTE: ECOLOGY RESPONSE

INTRODUCTION

1. Following the production of an Ecological Assessment and a Biodiversity Net Gain Assessment in August 2023 for the proposed development at land to the east of Albion Road and the north of Copper Lane, Marden, comments with regard to ecology were received from the Kent County Council's Ecological Advice Service (KCC EAS) and Kent Wildlife Trust (KWT) in response to the planning application (REF: 23/504068/OUT).
2. This document seeks to address these comments and provide a response to the ecological issues raised by the consultees.

KENT WILDLIFE TRUST

3. A response was received from KWT (dated 31st October 2023), which raised a number of issues regarding ecology each of which is addressed below.
4. The KWT response states, with regard to '**Loss of Turtle Dove habitat**':

"Built development is proposed in close proximity to hedgerow along the eastern boundary where turtle dove have been recorded nesting and a large area of scrub, habitat often utilised by turtle dove, is to be removed from the access road to the west of the site. Small areas of mixed scrub are proposed throughout the site as part of the mitigation and enhancement measures however it is likely that the development will detrimentally impact on turtle dove populations not just within the site but within the wider area and so the provision of small areas of scrub are unlikely to be of benefit to turtle dove. It is recommended that a larger area of scrub is provided close to the southern boundary along Copper Lane to provide nesting habitat for other bird species and that additional off-site compensation is provided for turtle dove. It may be possible to secure off-site compensation for turtle dove by providing a contribution to KWT and Marden Wildlife Group's 2024 turtle dove research programme and to off-site compensatory nesting habitat. A financial contribution would help deliver GPS trackers, a seasonal research person on-the-ground, and acoustic sound recorders to assist with surveying. This in turn will allow for a more targeted approach when putting in new feeding strips at other suitable sites in the local area, creating new breeding habitat for habitat

that is lost due to development and creating or restoring ponds which turtle dove require for drinking water.”

5. The applicant has re-visited the site layout and incorporated additional blocks of scrub (amounting to just over 0.2ha) in the south of the site close to Copper Lane to provide additional compensatory habitat for the loss of scrub in the north-west (see attached Plan – ‘Additional Enhancements Plan’).
6. This includes additional bolstering of hedgerow H5 along Copper Lane, which is currently tall and narrow and not optimal habitat for Turtle Dove (which prefer denser/wider hedgerows).
7. In addition, the applicant is open to the provision of a reasonable financial contribution to KWT and Marden Wildlife Group’s 2024 Turtle Dove research programme and off-site nesting habitat. The level of contribution would need to be agreed in liaison with KWT (efforts to date have been unsuccessful in eliciting a potential level of contribution from KWT).
8. It should be highlighted that the proposals here also include creation of new ponds that will provide further drinking resources for Turtle Dove as highlighted by KWT.
9. The KWT response continues with regard to **‘Cat predation on Turtle Doves’**:

“It is noted that the submission proposes planting native scrub of prickly vegetation along the eastern boundary to help deter cats away and maintain current nesting opportunities. It is not anticipated that the proposed planting will provide the reassurances required to ensure that turtle doves are protected from predation by increased numbers of cats associated with residential development. This vegetation will take time to become established and its success will be reliant on effective long-term management with a risk of areas of scrub failing to establish. It is recommended that cat proof fencing is also installed to better mitigate against the impacts of predation on priority species.”

10. The applicant is willing to include a run of cat proof fencing in line with the suggestion above by KWT. An indicative line of the fencing is included on the attached Plan – ‘Additional Enhancements Plan’ and an example specification for fencing is included at Appendix 1.
11. A long-term Landscape & Ecological Management Plan (LEMP) could be used to ensure successful establishment of the prickly planting and this could be secured by way of planning condition.
12. The KWT response further states with regard to **‘Artificial lighting’**:

“Artificial lighting has been shown to negatively impact on migratory birds, such as turtle dove, by affecting foraging, migration, orientation, and daily timing of behaviour. Increased lighting also increases predation by enabling birds of prey to hunt later into the night which could affect turtle dove numbers. Lighting within the site could therefore have a detrimental impact on nesting turtle dove. The impact of lighting on the existing and proposed habitats to the southern section of the site is also of concern. It is therefore advised that a wildlife sensitive lighting design scheme is required by condition and provided at the reserved matters stage in the event planning permission is granted.”

13. The applicant would accept the imposition of a planning condition to secure a wildlife sensitive lighting design at the detailed (reserved matters) stage. This accords with the recommendations made in Ecology Solutions' submitted Ecological Assessment (August 2023).
14. Based on the provision of all of the above measures (and the agreement of a reasonable level of financial contribution) the scheme would avoid any overall adverse effects on Turtle Dove.
15. The KWT states with regard to '**Biodiversity Net Gain (BNG)**':

"Whilst we appreciate that achieving 10% BNG using the Biodiversity Metric is not yet a mandatory requirement, national policy requires developments to achieve a net gain in biodiversity. The applicant sets out that their scheme delivers significant net-gains to biodiversity of 27.77%. A number of discrepancies have been identified within the submitted Biodiversity Net Gain Assessment which, if addressed would result in a reduced BNG percentage for the site. It is not clear to what extent the BNG percentage would be reduced, and we accept that it is likely that a positive result for BNG would still be maintained. It should however be noted that the significance of the biodiversity benefits are likely to be over-represented by the current BNG Assessment.

A simplistic approach to assessing the type and quality of habitats has been taken, with no evidence that consideration has been given to the impact of pressures (e.g., recreational pressure, trampling or pressures on management in urban areas) from the operation of the development when assigning the condition of habitats. Contrary to the applicant's assertion that good condition may be feasible for the creation of other neutral grassland throughout the development site, we would query if the smaller pockets of other neutral grassland proposed within the development site, particularly narrow areas proposed on verges bordering properties will be subject to suitable management and lack of trampling to achieve a moderate score.

Similarly, the target condition of all scrub across the site achieving a good condition does not seem to be realistic or deliverable given the sites constraints. Achieving good condition for mixed scrub requires that all five of the condition assessment criteria are met – including the requirement to have a well-developed edge with scattered scrub and tall grassland and/or forbs present between the scrub and adjacent habitat. Given that many of the newly planted areas of scrub appear to be situated on road verges or in small areas between buildings and roads it does not seem likely that a management regime would allow all the condition assessment criteria to be met.

It should be ensured that post-intervention habitat creation and enhancement is realistic and deliverable, in line with principle 6 of the Biodiversity Metric 4.0 User Guide.

In line with the above, it is important that the habitats being created and enhanced to the southern section of the site account for the public access and recreational use of this area by residents. By allowing complete public access to the entire area it is likely that there will be a level of disturbance that prevents the habitats from being utilised by species. These concerns extend not just to the creation of habitat for BNG, but also to the success of species mitigation measures proposed within the southern portion of the site."

16. It is welcomed that the KWT agrees that a positive result for BNG would be maintained even if they disagree with the submitted calculation.
17. Notwithstanding, it is incorrect for KWT to state that no consideration has been given to the impact of urban pressures on habitat condition post development. The criticism assumed by KWT as to achieving condition are subjective and the provision of a LEMP (as already alluded to above) would ensure that habitats are managed appropriately and achieve the intended condition. Indeed, the target condition notes in the submitted BNG report explain how the condition will be achieved. Indeed, with regard to the 'other neutral grassland' habitats the assignment of moderate condition is already a precautionary approach. As such, Ecology Solutions disagrees that the BNG score would be significantly reduced. In any event, at the outline stage the submission is to demonstrate that a gain is achievable and the precise score will need to be calculated at the detailed (reserved matters) stage.
18. With regard to public access it is a common misconception that recreational use will automatically be to the detriment of any proposed mitigation. Management of public access is a widely used tool with which the KWT will be intimately familiar as management of Local Nature Reserves (designed specifically for public access) illustrate that high ecology value and public access can co-exist.
19. The KWT goes on with regard to '**Marden Meadows SSSI**':

"The application site and the wider area are subject to surface water flooding. KWT wish to raise concerns about the impact of surface water flooding from the proposed development on existing ponds within the site, neighbouring habitats, and water courses in close proximity to the site. Using online mapping services, there appears to be a link between the ponds on the development site and Marden Meadows Site of Special Scientific Interest (SSSI) via a network of ditches. On the basis of this potential pathway for impact and the fact that the site falls within Natural England's SSSI Impact Risk Zone for Mardon Meadows SSSI it is recommended that Natural England are consulted regarding potential impacts and the suitability of mitigation. Of particular concern is the risk of polluted surface water runoff seeping into the watercourse which leads to the Marden Meadows SSSI."

20. A separate technical response has been produced by the applicant's drainage consultants that demonstrates how the risk of polluted surface water runoff seeping into the watercourse would be avoid and, in turn, avoid any effects on Marden Meadows SSSI. Indeed, it should be highlighted that the consultation response from Natural England, dated 16 October 2023, already confirms that Natural England do not object to the proposals and do not anticipate any adverse effects arising on any statutorily designated sites (see Appendix 2):

"Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes"

KENT COUNTY COUNCIL'S ECOLOGICAL ADVICE SERVICE

21. A response was received from KCC EAS (dated 1st November 2023), and the points therein are addressed below.
22. Comments with regard to **'Breeding Bird Surveys'** were as follows:

"Despite being aware of the concerns raised by Kent Wildlife Trust and Marden Wildlife Group, the applicant does not appear to have undertaken breeding bird surveys of the site to understand the importance of the site for nesting turtle doves, including in the context of the local population. Kent Wildlife Trust have supplied data to indicate records of turtle doves around the site boundaries in 2023. However, these data are not understood to represent targeted or comprehensive site surveys.

We consider that insufficient information has been provided by the applicant, assessing the impacts of the proposed development on breeding birds. It is therefore recommended that breeding bird surveys are carried out in line with the latest bird survey guidelines and the latest Chartered Institute of Ecology and Environmental Management (CIEEM) good practice guide.

We also note, that whilst the submitted ecology report recognises the potential value of the boundary tree lines/hedgerows for turtle dove, it does not provide a full assessment of the value of the site for foraging turtle doves (to support nesting), nor does it provide a detailed assessment of the suitability of the entire site for turtle dove nesting. For example, no detailed commentary regarding the suitability of the scrub on-site for nesting, or regarding the current value for turtle dove of the hedgerows/tree lines is provided (e.g., in the context of width and height criteria).

We further note that the submitted ecology report dismisses impacts from the proposed development upon turtle doves as most of the hedgerows on-site are to be retained. The report does not acknowledge any potential impacts from increased disturbance, predation or a loss of foraging habitat. Once the scale of mitigation necessary for turtle dove is identified through further survey, mitigation options for turtle dove may need to be reexplored. This could include off-site contributions to habitat enhancements and/or on-site mitigation such as:

- Habitat buffer zones between hedgerows and gardens/housing/areas of public open space;*
- Provision of foraging habitat for turtle dove;*
- Enhancement of retained hedgerows to meet 'ideal' nesting habitat dimensions (i.e., over 4m high and around 3m wide);*

Engagement with interested parties such as Kent Wildlife Trust and Marden Wildlife Group would likely be beneficial to understanding the wider issues and possible solutions.

The additional survey data (along with any necessary mitigation and compensation measures) should be included within the submitted EcIA prior to determination of the planning application. This is in alignment with paragraph 99 of ODPM 06/2005 which states, "it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise

all relevant material considerations may not have been addressed in making the decision”.

23. The applicant has referenced the suitability of the habitats for Turtle Doves and has entered into discussions with KWT over the on-site mitigation and potential financial contributions for additional off-site measures (as set out above).
24. It is accepted that the scrub in the north-west provides potential suitability for this species, although it has not been recorded using this area throughout any surveys between 2019 and 2023 (as per the submitted Ecological Assessment). As such, additional scrub areas are proposed in the south of the site close to Copper Lane to offset the loss. There are no other habitats within the site that would represent suitable nesting habitat (being an active/intensive orchard) or foraging habitat (they feed almost entirely on seeds and historically, their diet comprised arable plant species). Notwithstanding, with regard to the latter Turtle Doves may take seeds from areas of short vegetation and bare ground such as fallow areas and farm tracks and wild bird feeding areas are also used. As such, some such measures could be incorporated into the open spaces at the detailed design stage if deemed appropriate (albeit financial contributions for such off-site measures are proposed).
25. As such, there is not deemed merit in conducting specific Breeding Bird surveys as the site assessment has already identified suitable habitat for Turtle Dove and mitigation is being proposed accordingly (which in turn would also benefit other breeding birds). Notwithstanding, the applicant has instructed breeding bird surveys to be completed in spring 2024 and the results will be reported in due course.
26. As such, it is considered that the proposals accord with the principles of paragraph 99 of ODPM 06/2005 (as highlighted by KCC) as all relevant impacts have been considered and mitigated/offset as necessary.
27. KCC EAS went on to state the following with regard to ‘**Great Crested Newts**’:

“The applicant has not made clear within the submitted ecology report what the expected impacts to great crested newts (GCN) are, or how these impacts are proposed to be mitigated for. There are positive records for GCN within ponds directly adjacent to the site. Mitigations for GCN are expected to be required as GCN are likely to make use of habitat present on-site.

The applicant will need to decide at this stage, what route to take for GCN. If licensing is not considered necessary, this will need to be fully justified with precautionary measures put in place. It is currently unclear to KCC EAS how much suitable GCN habitat will be affected by proposals. For example, the extent of areas of longer grass across the site are unclear. It would be helpful for these areas to be more clearly mapped/identified. Where seeking licensing, the applicant will need to choose between traditional licensing or District Level Licensing (DLL). If the former, a full mitigation strategy will have to be proposed to demonstrate that mitigation for impacts are achievable. Alternatively, a countersigned DLL impact assessment and conservation payment certificate (IACPC) should be submitted to the local planning authority prior to determination

*of the application*⁵. *Following that, evidence of the full conservation payment can be conditioned if planning permission is granted.*"

28. It is not necessary for the applicant to commit to a specific licensing route, whether it is District Licensing or Traditional Licensing and it is possible to switch from one to the other if desired.
29. Notwithstanding, the proposals would allow a traditional route to be pursued if desired and appropriate mitigation can be achieved. As already stated in the submitted Ecological Assessment (paragraph 5.3.60): *"...the habitats on site are considered to be suboptimal terrestrial habitat and the hedgerows and grassland around the ponds, which would represent suitable habitat, are to be retained and enhanced within the development proposals."*
30. As such, it is considered that there is already sufficient clarity as to the effects of the proposals and it can be demonstrated that, in principle, an acceptable licensing mitigation strategy can be achieved.
31. Contrary to the assertion by KCC that a full mitigation strategy is required at this stage it should be highlighted it is not the LPA's duty to consider the three derogation tests (set out in the Conservation of Habitats and Species Regulations 2017) in detail and their duty is simply to consider if it is 'unlikely' that Natural England would grant a licence (as per *Prideaux V. Buckinghamshire County Council And FCC Environmental UK Limited EWHC 1054, April 2013*). Paragraph 99 states of that judgment states:

*"I think the County Council discharged its duty under regulation 9(5) in this case with no less rigour than was required to comply with the approach indicated by the Supreme Court in Morge. **It did at least as much as it had to do to satisfy itself that the necessary derogations were not unlikely to be licensed.** Indeed, I think it did enough to satisfy even the more burdensome remit for planning authorities envisaged by the Court of Appeal in Morge, and by the judge in Woolley."* [our emphasis added].

32. Given the mitigation strategy will be based around a standard translocation exercise approach there is not deemed to be anything to suggest that the mitigation proposed for this site is unusual and that licensing would not be granted. As such, it is not considered necessary to provide such detailed information at the pre-determination stage. If necessary, such a statement could be the subject of a planning condition for RM approval at the relevant time but is not needed at the outline stage. Indeed, given the application is only in outline, it is not possible to provide definitive details, such as fencing arrangements, as these could change subject to the detailed RM layout.
33. Nonetheless, in the interests of trying to address the KCC concerns the principles for mitigation are set out below:
 - Upon grant of a European Protected Species licence from Natural England, exclusion fencing will be positioned around all areas of suitable habitat within 250m of ponds to be impacted by the proposed development and all Great Crested Newts will be captured and removed from this habitat. All newts captured will be translocated to a receptor site.
 - The precise area for the receptor site will be subject to the detailed RM application but will be in an open space area adjacent to the pond in the south-west corner of the site (and possibly a second receptor in the south-

east) as indicated on the attached 'Additional Enhancements Plan'. This will ensure the receptor area will be linked to off-site areas of suitable habitat and off-site ponds supporting Great Crested Newts (e.g. pond P10 to the west and P8, P9, P25 and P26 to the east). The receptor area(s) will only be temporary whilst construction occurs and, ultimately, the habitat available for Great Crested Newts will include open spaces within the wider Application Site (secured by a Landscape Ecological Management Plan - LEMP) which is currently sub-optimal terrestrial habitats.

- Trapping for 30 - 60 days between March and October (low populations in ponds within 250m that could be viewed together as a medium-sized meta-population). A trapping day is where there is a night air temperature above 5°C.
- Detailed fencing arrangement for trapping subject to detailed RM layout but as part of the capture, exclusion and translocation exercise, exclusion fencing will be positioned for the duration of the development site construction, while upright drift fencing will also be erected within the centre to aid capture prior to clearance.
- Pitfall traps will be used at a minimum density of 50 traps / ha and will be located along the lines of the exclusion and drift fencing. The traps will be installed at 5-10m intervals and artificial refugia will also be placed within any suitable terrestrial habitat. The trapping exercise will terminate following the minimum 60 trapping nights and 5 clear days of no capture.
- Once the Application Site is clear of Great Crested Newts the drift fencing will then be removed but the exclusion fencing along the boundary/receptor will be retained. The removal of the drift fencing will need to be overseen by an ecologist and undertaken between March and October. The retention of the exclusion fencing along the boundary/receptor(s) will ensure no Great Crested Newts enter the development site during construction, and the exclusion fencing will be removed around the boundary once development has been completed.
- Areas of wildflower tussocky grassland and new scrub blocks suitable for Great Crested Newts will be created and maintained within some of the public open space and would be within 250m of the off-site ponds (and thus within the theoretical dispersal distance of this species). It is also recommended that a hibernaculum (or multiple hibernacula) be created within this habitat. Log piles will be provided at other strategic locations. In addition, margins of rough grassland will be provided along retained hedgerows to maintain green corridors for this species.
- The proposed attenuation would provide additional suitable aquatic habitat at times but it is not necessary to offset the loss of any on-site ponds (albeit no GCN were recorded in the on-site ponds in any event).
- Suitable habitats for Great Crested Newts will be secured via an LEMP for the Application Site (see above).
- To ensure no impacts occur to Great Crested Newts post-development, the design of the roads allows for the provision of sloped/dropped kerbs to provide Great Crested Newts with a means of escape should they become trapped on the road, together with wildlife kerbs adjacent to gully pots.

34. Based on the above it can be seen that the mitigation strategy for Great Crested Newts provides appropriate, linked habitats of high quality for this species (in the south of the site) to offset losses of sub-optimal terrestrial habitat. Various habitats will be created/lost and the strategy will ensure that newt dispersal and breeding is not compromised as a result of the development.

35. As such, it is considered the above illustrates that the strategy is both acceptable and deliverable and that a licence is not 'unlikely to be granted' by Natural England.

36. Finally, with regard to '**Reptiles**' KCC EAS state:

"Whilst it is indicated that habitat post-development will be improved for reptiles, it is unclear how impacts to reptiles will be mitigated for during the site clearance and construction process. The extent of areas off-site or on-site suitable to support reptiles displaced during habitat manipulation whilst construction takes place are unclear.

If habitat manipulation is deemed an appropriate mitigation measure, the reptiles must have suitable habitat to move into for the duration of construction. We request clarity on how this will be dealt with effectively to avoid injury/killing, but also to avoid a loss of the on-site population between site clearance and operation. We note that whilst the report indicates that there is only habitat suitable for reptiles along the margins of the site, there are a cluster of reptile records along H4, around P1/a spoil mound, H5, P3 and P4. These areas are all to be lost/relandscaped within proposals and is suggestive of more habitat available than indicated in the main text of the report.

Additional information regarding reptile mitigation measures should be supplied prior to determination. This is in alignment with paragraph 99 of ODPM 06/2005 which states, "it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision".

Reptiles are protected from killing and injury under the Wildlife and Countryside Act 1981 (as amended). British reptiles are also listed under section 41 of the NERC Act 2006 and the local planning authority must have regard for their conservation in its planning decision."

37. The reptiles would be relocated to the receptor areas that would be created for Great Crested Newts in tandem with the mitigation strategy for that species. As such, this would ensure injury/killing is avoided and address the concerns raised by KCC.

CONCLUSION

38. In light of the above, it is considered that the based on the measures outlined, and the clarification with regard to mitigation and enhancements that the development proposals will avoid any potential adverse impacts on Turtle Doves, Great Crested Newts and reptiles and their habitats and create new and enhanced opportunities for these species/groups.
39. Based on the technical information produced by other consultants (hydrology) it is considered that the proposed development will not have any adverse hydrological impacts upon Marden Meadows SSSI.

40. As such, it is considered that the concerns raised by both KWT and KCC have been satisfactorily addressed.

Ecology Solutions
March 2024

PLANS

PLAN

Additional Enhancement Measures

ECOLOGY SOLUTIONS
Part of the ES Group

Rev: B

March
2024

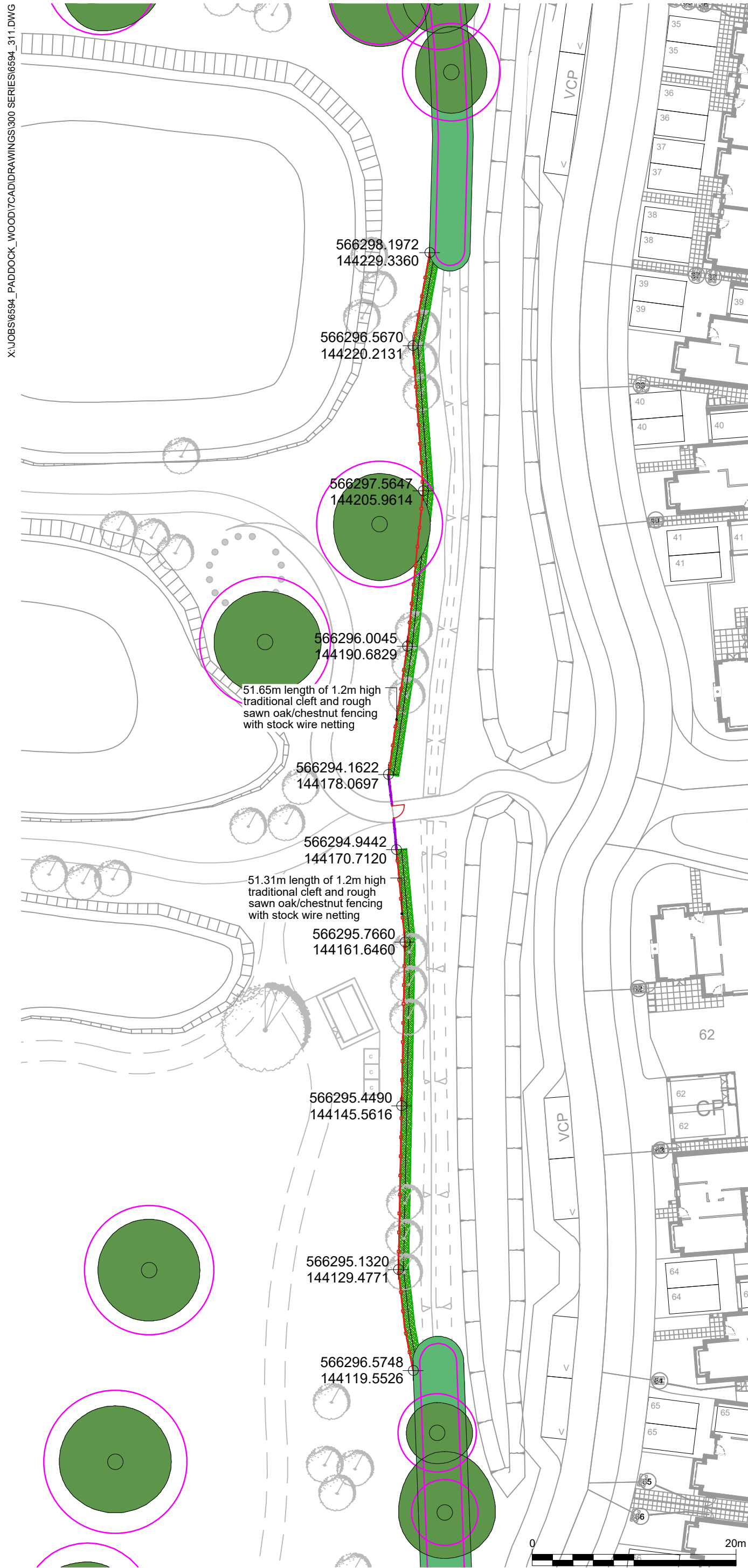
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APPENDICES

APPENDIX 1

Fencing Example

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Nature reserve fencing extents with coordinates @1:400

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READ THIS FIRST



Note for Contractors

This drawing should be considered along with the risk information contained in the CDM Pre Construction Information. This information will include details of the SIGNIFICANT risks which LDA Design has identified which may arise from constructing their designs shown on this drawing. A Competent Contractor should be aware of the typical risks associated with doing this work.

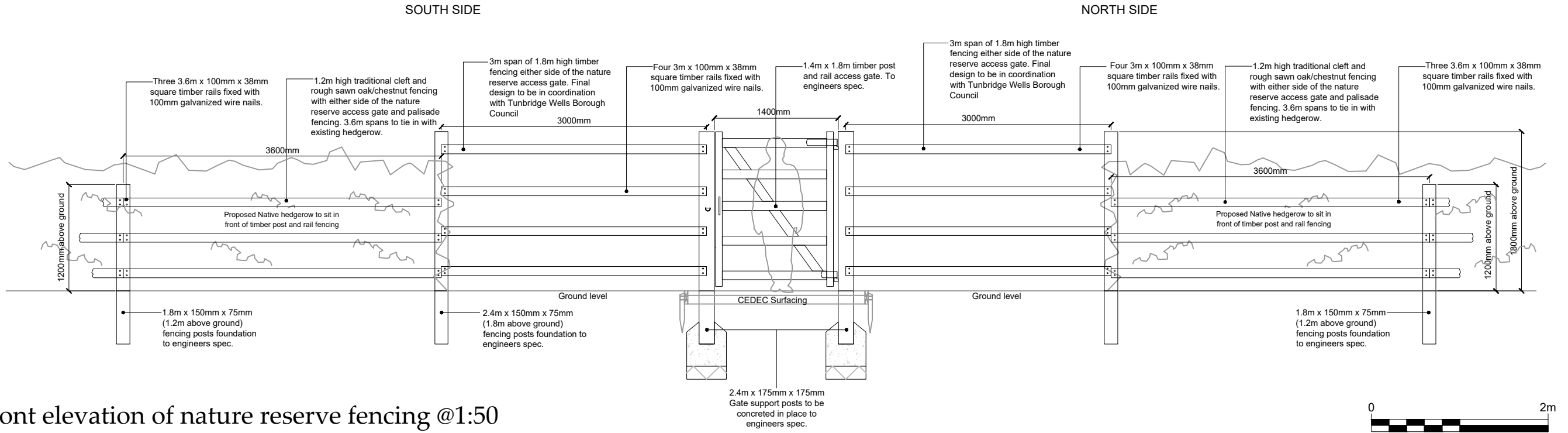


Note for Workers

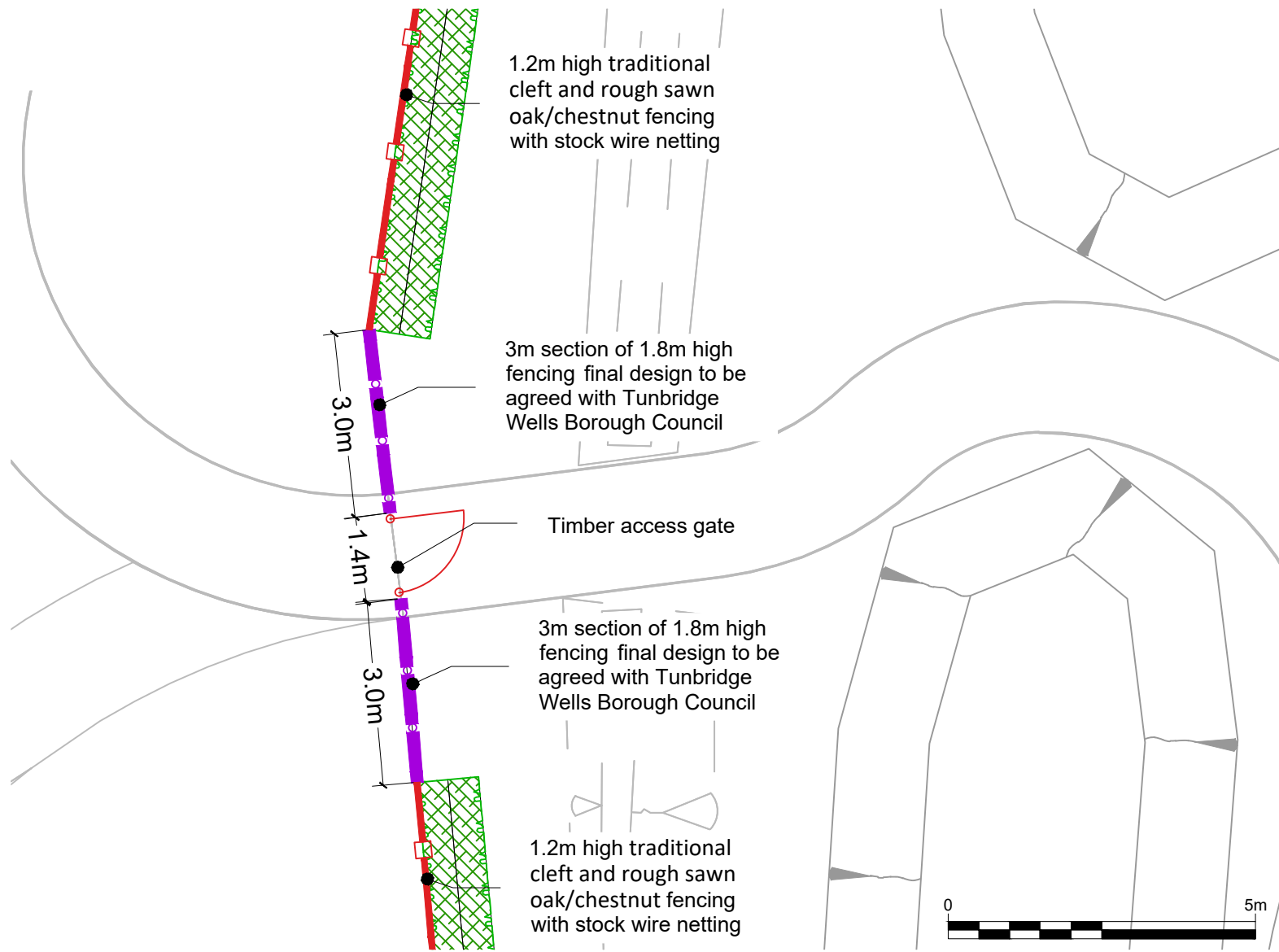
DO NOT START YOUR WORK unless you know the Risks and Controls relating to the work on this drawing (including SAFE SEQUENCES OF WORK and EQUIPMENT).



Do not issue copies of parts of this drawing without the above Note for Workers (unless you are sure that the Workers can undertake the work safely).



Front elevation of nature reserve fencing @1:50



Nature reserve fencing extents @1:100

LEGEND

- 1.2m high traditional cleft and rough sawn oak/chestnut fencing with stock wire netting.
- 1.8m high timber fencing to reserve entrance final design to be agreed with Tunbridge Wells Borough Council
- 1.8 x 1.4m timber access gate
- Native Hedgerow mix

Hardworks Proposals to be read in conjunction with the rest of the External Works information.

For additional information, refer to:

- Development area detailed planting (6594_100-115)
- Development area detailed tree and hedging proposals (6594_120-123)
- Development area grass planting (6594_140-143)
- Advance Planting 6594_126
- Infrastructure Softworks (Series 200)
- Open Space softworks proposals (6594_230-235)
- Infrastructure Hardworks (Series 300)
- Open Spaces hardworks proposals (6594_320-322)
- Sections and Details (Series 400)
- Landscape Specification (Series 500)

C02	Amendments following design changes and layout revision (see revision clouds for locations)	CA	19.04.21
C01	General Amendments	CA	23.09.19
REV.	DESCRIPTION	APP.	DATE

LDĀDESIGN

PROJECT TITLE
PADDOCK WOOD

DRAWING TITLE
Nature reserve fencing details

ISSUED BY	Peterborough	T: 01733 310 471	
DATE	DEC 19	DRAWN	KBo
SCALE@A2	As shown	CHECKED	CA
STATUS	Construction	APPROVED	CA

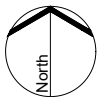
DWG. NO 6594_311_C02

No dimensions are to be scaled from this drawing. All dimensions are to be checked on site. Area measurements for indicative purposes only.

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Sources Ordnance Survey

Scale as shown



APPENDIX 2

Consultation Response from Natural England 16
October 2023

Date: 16 October 2023
Our ref: 452146
Your ref: 23/504068/OUT



FAO Marion Geary
Maidstone Borough Council Planning

BY EMAIL ONLY

Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

T 0300 060 3900

Dear Marion Geary,

Planning consultation: Outline application with some matters reserved (access only sought) for the removal of 2 former agricultural sheds and erection of up to 117no. dwellings and associated infrastructure including partial footways on Albion Road.

Location: Land East Of Albion Road And North Of Copper Lane Marden Kent TN12 9EG

Thank you for your consultation on the above dated 27 September 2023 which was received by Natural England on 27 September 2023.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

SUMMARY OF NATURAL ENGLAND'S ADVICE

NO OBJECTION

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

Natural England's generic advice on other natural environment issues is set out at Annex A.

Sites of Special Scientific Interest

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites and has no objection to the proposed development.

Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the data.gov.uk website

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries regarding this letter, for new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

Yours sincerely,

Richard Gibson
Consultations Team

Annex A – Additional advice

Natural England offers the following additional advice:

Landscape

Paragraph 174 of the [National Planning Policy Framework](#) (NPPF) highlights the need to protect and enhance valued landscapes through the planning system. This application may present opportunities to protect and enhance locally valued landscapes, including any local landscape designations. You may want to consider whether any local landscape features or characteristics (such as ponds, woodland, or dry-stone walls) could be incorporated into the development to respond to and enhance local landscape character and distinctiveness, in line with any local landscape character assessments. Where the impacts of development are likely to be significant, a Landscape & Visual Impact Assessment should be provided with the proposal to inform decision making. We refer you to the [Landscape Institute](#) Guidelines for Landscape and Visual Impact Assessment for further guidance.

Best and most versatile agricultural land and soils

Local planning authorities are responsible for ensuring that they have sufficient detailed agricultural land classification (ALC) information to apply NPPF policies (Paragraphs 174 and 175). This is the case regardless of whether the proposed development is sufficiently large to consult Natural England. Further information is contained in [GOV.UK guidance](#). Agricultural Land Classification information is available on the [Magic](#) website on the [Data.Gov.uk](#) website. If you consider the proposal has significant implications for further loss of 'best and most versatile' agricultural land, we would be pleased to discuss the matter further.

Guidance on soil protection is available in the Defra [Construction Code of Practice for the Sustainable Use of Soils on Construction Sites](#), and we recommend its use in the design and construction of development, including any planning conditions. For mineral working and landfilling separate guidance on soil protection for site restoration and aftercare is available on [Gov.uk](#) website. Detailed guidance on soil handling for mineral sites is contained in the Institute of Quarrying [Good Practice Guide for Handling Soils in Mineral Workings](#).

Should the development proceed, we advise that the developer uses an appropriately experienced soil specialist to advise on, and supervise soil handling, including identifying when soils are dry enough to be handled and how to make the best use of soils on site.

Protected Species

Natural England has produced [standing advice](#)¹ to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a Site of Special Scientific Interest or in exceptional circumstances.

Local sites and priority habitats and species

You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraphs 175 and 179 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geoconservation groups or recording societies.

Priority habitats and Species are of particular importance for nature conservation and are included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. List of priority habitats and species can be found on [Gov.uk](#). Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found [here](#).

¹ <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

Annex A – Additional advice

Ancient woodland, ancient and veteran trees

You should consider any impacts on ancient woodland and ancient and veteran trees in line with paragraph 180 of the NPPF. Natural England maintains the Ancient Woodland [Inventory](#) which can help identify ancient woodland. Natural England and the Forestry Commission have produced [standing advice](#) for planning authorities in relation to ancient woodland and ancient and veteran trees. It should be taken into account by planning authorities when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland, ancient and veteran trees where they form part of a Site of Special Scientific Interest or in exceptional circumstances.

Environmental gains

Development should provide net gains for biodiversity in line with the NPPF paragraphs 174(d), 179 and 180. Development also provides opportunities to secure wider environmental gains, as outlined in the NPPF (paragraphs 8, 73, 104, 120, 174, 175 and 180). We advise you to follow the mitigation hierarchy as set out in paragraph 180 of the NPPF and firstly consider what existing environmental features on and around the site can be retained or enhanced or what new features could be incorporated into the development proposal. Where onsite measures are not possible, you should consider off site measures. Opportunities for enhancement might include:

- Restoring a neglected hedgerow.
- Creating a new pond as an attractive feature on the site.
- Planting trees characteristic to the local area to make a positive contribution to the local landscape.
- Using native plants in landscaping schemes for better nectar and seed sources for bees and birds.
- Incorporating swift boxes or bat boxes into the design of new buildings.
- Designing lighting to encourage wildlife.
- Adding a green roof to new buildings.

Natural England's [Biodiversity Metric 4.0](#) may be used to calculate biodiversity losses and gains for terrestrial and intertidal habitats and can be used to inform any development project. For small development sites the [Small Sites Metric](#) may be used. This is a simplified version of [Biodiversity Metric 4.0](#) and is designed for use where certain criteria are met.

Natural England's [Environmental Benefits from Nature tool](#) may be used to identify opportunities to enhance wider benefits from nature and to avoid and minimise any negative impacts. It is designed to work alongside [Biodiversity Metric 4.0](#) and is available as a beta test version.

Green Infrastructure

Natural England's [Green Infrastructure Framework](#) provides evidence-based advice and tools on how to design, deliver and manage green infrastructure (GI). GI should create and maintain green liveable places that enable people to experience and connect with nature, and that offer everyone, wherever they live, access to good quality parks, greenspaces, recreational, walking and cycling routes that are inclusive, safe, welcoming, well-managed and accessible for all. GI provision should enhance ecological networks, support ecosystems services and connect as a living network at local, regional and national scales.

Development should be designed to meet the [15 Green Infrastructure Principles](#). The Green Infrastructure Standards can be used to inform the quality, quantity and type of green infrastructure to be provided. Major development should have a GI plan including a long-term delivery and management plan. Relevant aspects of local authority green infrastructure strategies should be delivered where appropriate.

GI mapping resources are available [here](#) and [here](#). These can be used to help assess deficiencies in greenspace provision and identify priority locations for new GI provision.

Access and Recreation

Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways should be considered. Links to urban fringe areas should also be explored to strengthen access networks, reduce fragmentation, and promote wider green infrastructure.

Annex A – Additional advice

Rights of Way, Access land, Coastal access and National Trails

Paragraphs 100 and 174 of the NPPF highlight the importance of public rights of way and access. Development should consider potential impacts on access land, common land, rights of way and coastal access routes in the vicinity of the development. Consideration should also be given to the potential impacts on any nearby National Trails. The National Trails website www.nationaltrail.co.uk provides information including contact details for the National Trail Officer. Appropriate mitigation measures should be incorporated for any adverse impacts.

Biodiversity duty

Your authority has a [duty](#) to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat. Further information is available [here](#).



ECOLOGYSOLUTIONS

Part of the ES Group

Ecology Solutions Limited | Farncombe House | Farncombe Estate | Broadway | Worcestershire | WR12 7LJ

01451 870767 | info@ecologysolutions.co.uk | www.ecologysolutions.co.uk

Appendix D: Technical Note: Drainage/Open Space

TECHNICAL MEMORANDUM



Project:	C3571 – Albion Road	Author:	Stuart Argyle
Subject:	Drainage Design	Date:	05.06.2024
Reference:	HSP2024-C3571-C&S- TR-2388		

Introduction

HSP have prepared and submitted a Flood Risk Assessment and Drainage Strategy document (reference HSP2023-C3571-C&S-FRAS1-1263 Rev A), in support of a Planning Application (reference 23/504068/OUT) at the aforementioned project.

Subsequently, the Local Planning Authority (Maidstone Borough Council) have refused the application. The refusal notice has been included within Appendix 1. Refusal reason (6) currently states:

There is an inadequate amount of natural and semi-natural open space both in quantum, and public useability because of the indicative configuration and siting relative to the housing, the attenuation basin has not been demonstrated to be a wet pond and ecological habitat/mitigation areas would not be publicly accessible. Therefore, the proposal does not comply with policy DM19 of the Maidstone Borough Local Plan 2017 or policy A2 of the Marden Neighbourhood Plan.

HSP have been instructed to provide an updated surface water drainage strategy to partially satisfy the concerns relating to refusal reason (6).

The area of concern that this document relates to specifically, is *“the attenuation basin has not been demonstrated to be a wet pond and ecological habitat/mitigation areas would not be publicly accessible”*.

Flood Risk Assessment and Drainage Strategy (Reference HSP2023-C3571-C&S-FRAS1-1263 Rev A)

The original HSP Flood Risk Assessment (FRA) indicates that the attenuation area and volume required to satisfy national and local drainage standards.

The FRA included a drainage strategy, that provides flexibility of an on-line or off-line attenuation feature. Generally, a wet pond is compatible with an on-line (or flow-through) attenuation feature.

It is understood that a ‘board walk’ walkway has been included on the architectural site plans, which is sited over the attenuation feature. This walkway would provide public accessibility to the area.

Revised Drainage Strategy (MAR-HSP-00-00-DR-C-1000 P02 SW Drainage Strategy)

Considering the refusal comments received from the Local Planning Authority, the proposed drainage strategy for the site has been revised to accommodate an on-line attenuation feature only.

A permanent water depth will be accommodated below the permanent water level (i.e. level of inlets/outlets to the feature), generating a permanent pool of water, or ‘wet pond’.

The actual depth of permanent water is to be determined at detailed design stage in conjunction with landscape architects to consider planting and other ecological requirements. It is noted that the depth of permanent water will likely be in the region of 0.6m to 1.2m. Any aquatic benches present will have permanent water depth of around 0.4m.

As mentioned previously, a walkway has been included to provide public accessibility to the area, with footways and shared access roads running around the perimeter.

The revised drainage strategy has been included within Appendix 2.

Appendix 1

Planning Application Correspondence



Rydon Homes Limited
Luxford Place
Lower Road
Forest Row
East Sussex
RH18 5HE

22 December 2023

PLANNING DECISION NOTICE

APPLICANT:	Rydon Homes Limited
DEVELOPMENT TYPE:	Large Maj Dwellings
APPLICATION REFERENCE:	23/504068/OUT
PROPOSAL:	Outline application with some matters reserved (access only sought) for the removal of 2 former agricultural sheds and erection of up to 117no. dwellings and associated infrastructure including partial footways on Albion Road.
ADDRESS:	Land East Of Albion Road And North Of Copper Lane Marden Kent TN12 9EG

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

- (1) The application site lies in the countryside and residential development of this scale does not accord with the adopted Maidstone Borough Local Plan's Spatial Strategy policy SS1 which directs residential development to defined built areas and site allocations. It would erode the sense of tranquillity, resulting in an urbanising and visually prominent form of development, out of character with the rural locality, visually harmful to the setting of Marden in its rural context on approach from the south and therefore significantly harmful to the character and appearance of the countryside being the two primary tests of "harm" in adopted policy SP17. The Council has in excess of 5 years housing land supply and positive housing delivery rates. There are no exceptional circumstances that would justify departing from this strategy with the resulting harm to the character and appearance of the countryside and the proposals are therefore contrary to Policies SS1 and SP17 of the Maidstone Borough Local Plan 2017 and Marden Neighbourhood Plan policies BE1 and NE3.

MKPS – Working in Partnership with: Maidstone Borough Council

Please Note: All planning related correspondence for MBC should be sent to:

Mid Kent Planning Support, Maidstone House, King Street, Maidstone ME15 6JQ

Email: planningsupport@midkent.gov.uk

Access planning services online at: www.maidstone.gov.uk; or submit an application via www.planningportal.co.uk

- (2) The application site contributes to the landscape character of the Staplehurst Low Weald which is that of low lying gently undulating clay landscape of small fields with orchards, pasture, ponds and watercourses. The indicative sizes and number of dwellings (117 including some 2.5 storey dwellings) and associated hardstanding for access, parking and turning will result in a layout and siting of built development of a suburban form extending into the rural landscape, significantly harming its character. The indicative layout shows cramped overdevelopment along the access road entrance and in the NE corner and a proximity of dwellings to the southern and western boundaries that cannot be effectively screened by planting due in part to the intervening ponds and proposed attenuation basin. The harmful development would be particularly visually prominent due to site topography and the site being elevated above Thorn Road and Copper Lane with limited scope for adequate landscape buffers/screening at the boundaries and within the site. There is a significant loss of the orchard with only 2 very small areas being retained, contrary to conserving what is a defining land use important to the landscape character of the Staplehurst Low Weald. There will also be significant harm from external lighting and additional engineering to form the access onto Albion Road, a rural lane. The development would erode openness and cause unacceptable harm to the character and appearance of the countryside. The development is contrary to policies SS1, SP17, DM1, DM8 and DM30 of the Maidstone Borough Local Plan and Marden Neighbourhood Plan policies BE1 and NE3.
- (3) Due to the absence of safe pedestrian and cycle access on Albion Road to access the services within the village of Marden, the residents are likely to be reliant on the private motor vehicle to travel for access to day-to-day needs. This would be contrary to the aims of sustainable development as set out in Policies SS1, SP17, SP23 and DM1 of the Maidstone Borough Local Plan, policy In2 of the Marden Neighbourhood Plan, the National Planning Policy Framework and the objectives of Active Travel England to secure good walking, wheeling and cycling infrastructure.
- (4) The proposed access arrangement shows that refuse freighters are not able to safely access or egress from the site without overrunning adjacent traffic lanes. The Transport Assessment is deficient in that is no Road Safety Audit, there is inadequate raw data for traffic survey, visibility splays need recalculation and trip generation data needs sensitivity testing. The development is contrary to the NPPF which requires safe and suitable access to be achieved for all users and to policies DM1 and DM21 of the Maidstone Borough Local Plan 2017 and policy In3 of the Marden Neighbourhood Plan.
- (5) The ecology appraisal is deficient in terms of provision of habitat and/or mitigation for badgers, breeding birds, turtle doves, great crested newts and reptiles and in the assessment of the ecological value of the orchard in situ. The applicant has not taken account of local information provided by Kent Wildlife Trust and Marden Wildlife Group nor engaged with those groups. Therefore, it is not possible to confirm compliance with statutory species protection legislation, contrary to paragraph 180 of the NPPF, policy DM3 of the Maidstone Borough Local Plan 2017 and policy NE4 of the Marden Neighbourhood Plan.
- (6) There is an inadequate amount of natural and semi-natural open space both in quantum, and public useability because of the indicative configuration and siting relative to the housing, the attenuation basin has not been demonstrated to be a wet pond and ecological habitat/mitigation areas would not be publicly accessible. Therefore, the

proposal does not comply with policy DM19 of the Maidstone Borough Local Plan 2017 or policy A2 of the Marden Neighbourhood Plan.

- (7) The development will result in significant additional pressure on Kent County Council infrastructure including primary and secondary education that is unlikely to be fully mitigated in the absence of a s106 legal agreement providing supplementary financial contributions to the Local Education Authority. This is contrary to policy ID1 of the Maidstone Borough Local Plan 2017 and policy A3 of the Marden Neighbourhood Plan.

Informative(s):

- (1) This decision has been taken in accordance with the details and information provided in the following plans/documents:

Acoustic Report Noise Impact Assessment Received on 05 September 2023
Affordable Housing Statement Received on 05 September 2023
Ecological Assessment Received on 03 November 2023
Arboricultural Report Arboricultural Implications Assessment Received on 05 September 2023
Biodiversity Survey/Report Biodiversity Net Gain Assessment Received on 05 September 2023
Design and Access Statement Design and Access Statement Received on 05 September 2023
Energy Statement Energy and Sustainability Statement Received on 05 September 2023
Flood Risk Assessment Flood Risk Assessment 1 of 2 Received on 05 September 2023
Flood Risk Assessment Flood Risk Assessment 2 of 2 Received on 05 September 2023
Heritage Statement Received on 05 September 2023
22037 / SK26C Building Heights Layout Received on 05 September 2023
22037 - SK25J Coloured Site Layout Received on 05 September 2023
1035-0A-100 Existing Block Plan Received on 14 September 2023
1035-0A-101 Existing Building Floor Plan and Elevations Received on 14 September 2023
22037 - SK12F Policy Area Calculations Received on 05 September 2023
ITB15098-GA-026 Rev C Proposed Pedestrian / Cycle / Emergency Access Received on 05 September 2023
ITB15098-GA-053 Rev Proposed Site Access Arrangements Received on 05 September 2023
22037 - S101C Site Location Plan Received on 14 September 2023
CLM/2107/6 of 10 A Site Survey Received on 14 September 2023
CLM/2107/7 of 10 A Site Survey Received on 14 September 2023
CLM/2107/8 of 10 A Site Survey Received on 14 September 2023
CLM/2107/9 of 10 A Site Survey Received on 14 September 2023
CLM/2107/10 of 10 A Site Survey Received on 14 September 2023
CLM/2107/1 of 10 A Site Survey Received on 14 September 2023
CLM/2107/2 of 10 A Site Survey Received on 14 September 2023
CLM/2107/3 of 10 A Site Survey Received on 14 September 2023
CLM/2107/4 of 10 A Site Survey Received on 14 September 2023
CLM/2107/5 of 10 A Site Survey Received on 14 September 2023
22037 / SK30A Tree Retention/Removal Plan Received on 05 September 2023

Planning Statement Received on 05 September 2023
Landscape and Visual Impact Assessment Received on 05 September 2023
LVIA Figure 1 - The Site and Topography Received on 05 September 2023
LVIA Figure 2 - Landscape-related Designations and Public Rights of Way Received on 05 September 2023
LVIA Figure 3 - The Site, Landscape Features and Immediate Landscape Character A Received on 05 September 2023
LVIA Figure 4 - Photographs of the Site and Immediate Context Received on 05 September 2023
LVIA Figure 5 - Zone of Visual Influence and Viewpoint Locations Received on 05 September 2023
LVIA Figure 6.1-6.5 - Viewpoint Photographs Received on 05 September 2023
LVIA Figure 6.7-7 - Viewpoint Photographs and Indicative Site Layout Received on 05 September 2023
Mineral Resource Assessment Received on 05 September 2023
Outline Landscape and Ecological Management Plan Received on 05 September 2023
Transport Assessment Received on 05 September 2023
Transport Assessment Appendices 1 of 3 Received on 05 September 2023
Transport Assessment Appendices 2 of 3 Received on 05 September 2023
Transport Assessment Appendices 3 of 3 Received on 05 September 2023
Travel Plan Received on 05 September 2023

The Council's approach to this application:

In accordance with paragraph 38 of the National Planning Policy Framework (2023), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

This application did not comply with the provisions of the Development Plan and NPPF as submitted, and the substantial changes that are necessary would require a new planning application.

The applicant is advised to seek pre-application advice on any resubmission.

R. L. Jarman

Rob Jarman
Head of Development Management
Maidstone Borough Council

IMPORTANT: YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES

NOTIFICATION TO APPLICANT FOLLOWING REFUSAL OF PERMISSION OR GRANT OF PERMISSION SUBJECT TO CONDITIONS

This decision does not give approval or consent that may be required under any act, bylaw, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

Appeals to the Secretary of State

If you are aggrieved by the decision of your local planning authority (LPA) to refuse permission for the proposed development, or to grant it subject to Conditions, then you can appeal to the Secretary of State (SoS) under Section 78 of the Town and Country Planning Act 1990. **Please see “Development Type” on page 1 of the decision notice to identify which type of appeal is relevant.**

- If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice and if you want to appeal against the LPA's decision on your application, then you must do so within **28 days** of the date of this notice.
- If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against the LPA's decision on your application, then you must do so within **28 days** of the date of service of the enforcement notice, or within **6 months [12 weeks** in the case of a **householder** or **minor commercial** application decision] of the date of this notice, whichever period expires earlier.
- If this is a decision to refuse planning permission for a **Householder** application or a **Minor Commercial** application and you want to appeal the LPA's decision, or any of the conditions imposed, then you must do so within **12 weeks** of the date of this notice.
- In all other cases, you will need to submit your appeal against the LPA's decision, or any of the conditions imposed, within **6 months** of the date of this notice.

Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>.

If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority (planningappeals@midkent.gov.uk) and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. [Further details are on GOV.UK.](#)

The SoS can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The SoS need not consider an appeal if it seems to the SoS that the LPA could not have granted planning permission for the proposed development or could not have granted it without

the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

Appendix 2

Revised Surface Water Drainage Strategy

