



Draft Statement of Common Ground

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: APP/U2235/W/24/3346817

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

Draft Statement of Common Ground

for agreement between:

- (1) B.Yond Homes Limited
 - (2) Maidstone Borough Council
-

November 2024

DMH Stallard LLP
Griffin House
135 High Street
Crawley
West Sussex
RH10 1DQ

Tel: 01293 605160
Fax: 01293 663520
Email: Peter.Rainier@dmhstallard.com

DMH Stallard LLP Ref: 547/41963.08

This SOCG has been agreed by:

(1) DMH Stallard on behalf of B.Yond Homes Limited

Signed.....

Named.....

Dated.....

(2) Maidstone Borough Council

Signed.....

Named.....

Dated.....

Contents

1.	Introduction	1
2.	Description of the Site	10
3.	Planning History of the Site	12
4.	The Development Plan and Policy Guidance	13
5.	Housing Supply	16
6.	Matters in Dispute	17
7.	Matters Not in Dispute	18
8.	Suggested Planning Conditions	21

1. Introduction

- 1.1 This Statement of Common Ground (SoCG) has been prepared by (1) DMH Stallard LLP acting on behalf of B.Yond Homes Limited ("the Appellant"), and (2) Maidstone Borough Council ("the Council") in relation to an appeal concerning Land East of Albion Road and North of Copper Lane, Marden.
- 1.2 The Appeal when lodged relates to an Outline planning application for the erection of up to 117 dwellings and associated infrastructure including partial footways (associated with the bellmouth) on Albion Road (with access only for consideration, with all other details for Reserved Matters) (application ref: 23/504068/OUT).
- 1.3 The Planning Application was refused 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.

1.4 The Council submitted its Statement of Case on 12th September 2024. Within that document the Council made reference to a 'Supplementary Delegated Report' (SDR) also dated 12th September 2024. The CDR deleted reason for refusal 1 and amended reason for refusal 2.

1.5 The decision was based on the following Plans and Supporting documents;

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 Rev C	05/09/2023
Proposed Site Access Arrangements	ITB15098-GA-053 Rev A	05/09/2023
Tree Retention/Removal Plan	22037 / SK30A	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

1.6 The appellant's statement of case included the following new documents:

- Technical Note: Ecology Response
- Additional Enhancement Measures Rev B
- Fencing details 6594_311_C02
- Surface Water drainage Strategy MAR-HSP-00-00-DR-C-1000 P02
- Drainage Technical Memorandum HSP2024-C3571-C&STR-2388

1.7 Appeal amendments were submitted for public consultation by B.Yond Homes in September 2024.

- A Transport Assessment Addendum (report reference ITB15098-106, dated 18 September 2023)
- The Albion Road all purpose access and new footway connection along Albion Road between the site and the existing footway at the Albion Road / Seymour Drive junction as shown in drawing ITB15098-GA-060 Rev E and the visibility splay drawings ITB15098-GA-074 and ITB15098-GA-063D;
- The Copper Lane – Pedestrian / Cycle / Emergency Access as shown in drawing ITB15098-GA-057 Rev B;
- Surface improvements (bitmac / tarmac surface) to public footpath KM281 between Albion Road and Blossom Way as shown in drawing ITB15098-GA-051 Rev B; and
- Framework Travel Plan.

1.8 The appellant's proofs introduced further new/revised documents as follows:

- 22037/SK25K
- 22037/SK30B
- 1035-OA-102
- Additional Enhancement Measures Rev B
- GI plan ref ASLA44

1.9 As the application is for Outline approval with only access for consideration at this stage; it is agreed that the following description is appropriate:

“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 (with related off-site highway alterations to Albion Road).”

1.10 It is agreed that drawings for approval as part of this Appeal are:

- 22037-S101 C (Site Location Plan)
- ITB15098-GA-060 Rev E (Albion Road all-purpose access and new footway connection along Albion Road between the site and the existing footway at the Albion Road / Seymour Drive junction)
- ITB15098-GA-074 and ITB15098-GA-063D (Albion Road visibility splay drawings)
- ITB15098-GA-057 Rev B (The Copper Lane – Pedestrian / Cycle / Emergency Access)

1.11 Following the appeal amendments, the Council’s proof amended reason for refusal 3 and deleted reason for refusal 4.

1.12 Therefore the reasons for refusal are now:

- 1) *The application site is an upwardly sloping site on the rural edge of Marden village within the landscape character of the Staplehurst Low Weald. It has not been demonstrated, in this outline application, that the proposed development will meet all the conditions of policy LPRSA295 of the Maidstone Borough Local Plan Review 2024. These conditions reflect and seek to address the landscape sensitivities of the site. The illustrative plan: (i) shows that the proposed quantum of development and necessary infrastructure leads to a lack of structural landscaping throughout the site and to sensitive boundaries, especially the southern boundary (due in part to the intervening ponds and proposed attenuation basin, which will also result in existing tree loss); (ii) shows that the south part of the site around the existing ponds will not be kept free of development, with a proposed emergency access and associated visibility splays and a pumping station shown here (iii) shows that the existing tree/hedge site boundaries will not be enhanced, again particularly in the location of the attenuation basin. The resulting development would fail to respond sensitively of the rural setting of Marden and would harm the character and appearance of the surrounding countryside. In addition, the illustrative layout shows that the proposed quantum of houses will lead to cramped overdevelopment, exemplified in the illustrative plan at the*

access road entrance and in the NE corner adjacent to the southern and eastern boundaries respectively. The proposal is contrary to Policies LPRSP15 and LPRSA295 of the Maidstone Borough Local Plan Review 2024 and Marden Neighbourhood Plan policies BE1 and NE3.

- 2) The proposed alterations to Albion Road do not incorporate any measures for cyclists and are supported by a Transport Assessment Addendum and a Stage 1 Road Safety Audit that omit any reference to cyclist use, contrary to the Manual for Street's user hierarchy in which cycling use is to be considered above other motor traffic. Local residents are more likely to be reliant on the private motor vehicle to travel for access to day-to-day needs within the village of Marden. This would be contrary to the aims of sustainable development as set out in policies LPRSP6(E), LPRSA295, LPRSP12 and LPRSP15 of the Maidstone Borough Local Plan Review 2024, policy In2 of the Marden Neighbourhood Plan, the National Planning Policy Framework and the objectives of Active Travel England to secure good cycling infrastructure, including guidance within LTN1/20 "Cycle Infrastructure Design" and the user hierarchy of Manual for Streets.*
- 3) 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, and is contrary to paragraph 180 of the NPPF, policy LPRSP14(A) of the Maidstone Borough Local Plan Review 2024 and policy NE4 of the Marden Neighbourhood Plan.*
- 4) 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 LPRINF1 or LPRSA295 of the Maidstone Borough Local Plan Review 2024 or policy A2 of the Marden Neighbourhood Plan.*
- 5) 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 LPRSP13 of the Maidstone Borough Local Plan Review 2024 and policy A3 of the Marden Neighbourhood Plan.*

- 1.13 Following negotiation of a draft S106 legal agreement between MBC, KCC Education and the appellant, on the assumption that the Inspector is minded to fully accept the legal agreement as drafted in regard of Education Contributions, reason for refusal 7 would not be pursued by the Council.

1.14 This SoCG addresses the following areas of common ground between the Appellant and the Council:

2. Description of the site
3. Planning history of site
4. The Development Plan
5. Housing Supply
6. Matters that are in dispute between the Appellant and LPA
7. Matters that are not in dispute between the Appellant and LPA

2. Description of the Site

- 2.1 The appeal Site lies 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. The West boundary of the Site shares a short frontage with Albion Road which becomes Thorn Road South of the junction with Plain Road, but is otherwise separated from Albion Road and Thorn Road by an agricultural field. Located along the Northern boundary of the Site is the recently completed residential development of Russet Grove. To the east and south of the Site are open fields, defined by further agricultural land, with sporadic farm houses.
- 2.2 The appeal Site is within the settlement boundary of Marden. The appeal site slopes upwards from south to north and as such the residential development of Russet Grove is generally level with the higher parts of the application site.
- 2.3 The Site currently comprises of agricultural land and part of the residential front garden of "The Howlands". The majority of the site is a commercial plum and apple orchard. 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 parcel.
- 2.4 The appeal Site is currently accessible via a single width farm gate for vehicles from Copper Lane. A bollarded access point is to be retained as an emergency vehicular access and shared with pedestrian/cycle access as part of the proposal, including visibility splays.
- 2.5 The main vehicular access to the Site will be via Albion Road. The proposed access point on Albion Road has been located mostly within the front garden of a residential property known as The 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 under the Appeal scheme.
- 2.6 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.

- 2.7 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 The appeal Site is not within any protected landscapes. The High Weald National Landscape is located approximately 4km from the application Site.
- 2.9 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.
- 2.10 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 majority of the appeal Site is allocated in the MLPR for housing development in under **Policy LPRSA295** – Land at Copper Lane and Albion Road, Marden. The appeal site does take in part of the (unallocated) garden of The Howlands to the north for construction of the access point. Policy LPRSA295 allocates the site for the development of approximately 113 dwellings and contains conditions which are considered appropriate to be met having regard to design and layout; landscape and ecology; access; highways and transportation; open space, and utilities infrastructure.

Other relevant 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' had been allocated for residential development in the Maidstone Borough Local Plan (2017).

4. The Development Plan and Policy Guidance

4.1 For the purposes of Section 38 (6) of the Planning and Compulsory Purchase Act 2004, the current Development Plan for the area in which the Site is located comprises:

- (i) Maidstone Borough Council Local Plan Review (2024)
- (ii) Marden Neighbourhood Plan (2020)
- (iii) Kent Minerals and Waste Local Plan 2013 to 2030 as amended by the Early Partial Review

4.2 The following national planning guidance is also considered to be relevant to the consideration of the appeal:

- The National Planning Policy Framework (NPPF latest revision December 2023)
- National Planning Policy Guidance first launched in March 2014 (as updated)

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

4.3 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 or replaced.

4.4 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

- 4.5 Policy LPRSA295 of the MLPR is referred to in the Council’s delegated report and allocates the appeal site for residential development for approximately 113 dwellings and sets the conditions are considered appropriate to be met.

Marden Neighbourhood Plan (MNP) (2020)

- 4.6 The Marden Neighbourhood Plan does not allocate sites for development, rather it sets out a number of policies for developments to conform with. The policies considered relevant are:
- 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 (SPDs and SPGs)

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

- National Design Guide (2019)
- Maidstone Landscape Character Assessment 2012 (Updated 2013)
- Maidstone Landscape Capacity Study Sensitivity Assessment (2015)
- Kent Design Guide (2005) – Kent County Council
- Infrastructure Delivery Plan (Maidstone Borough Local Plan 2011-2031)
- Infrastructure Delivery Plan (Local Plan Review 2021-2038)
- Housing Land Supply reports published by MBC
- Community Infrastructure Levy reports published by MBC
- Active Travel England Policy Papers
- Maidstone Building for Life 12 (2018)
- Affordable and Local Needs Housing (2020)
- Public Art Guidance (2017)

5. Housing Supply

- 5.1 The MLPR sets out the housing strategy for the Borough . Policy LPRSS1 sets out the spatial strategy for development in the Borough over this plan period and the policy refers to the role of allocations in helping to provide for a minimum of 19,669 new dwellings over the plan period 2021-2038.
- 5.2 It is agreed that Policy LPRSP10 sets out a stepped housing trajectory approach, which relies on larger sites such as garden settlements and garden communities coming forward towards the end of the plan period, as such smaller allocated sites such as the Appeal Site are expected to come forward in the earlier part of the plan period, i.e. the first five years.
- 5.3 It is agreed that in accordance with paragraph 76 of the National Planning Policy Framework (2023) the Council are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision making purposes. This is because the newly adopted plan (the LPR) is less than five years old and identified at least a five year supply of specific, deliverable sites at the time that its examination concluded. The 2024 Housing Delivery Report – including land supply position – is therefore intended to be published alongside the Authority's Monitoring Report by 31st December 2024, for the purposes of plan monitoring. The Appeal site is an allocated site under Policy LPRSA295 in the LPR and therefore forms part of the spatial strategy and towards the delivery of 19,699 dwellings for the Borough over the plan period.
- 5.4 The Appeal site is included within the Council's housing trajectory and is therefore anticipated to deliver housing within the first five years of the plan.
- 5.5 The Appeal scheme would provide up to 117 dwellings and could be delivered in full within five years, therefore making a material contribution towards supply, including affordable housing provision.

6. Matters in Dispute

6.1 The matters in dispute are:

- 6.2 Landscape - specifically the impact of the development on the rural character of the local area
- 6.3 Whether it has been demonstrated that 117 houses can be delivered on the site in compliance with LPRSA295 (including whether it has been demonstrated that sufficient and suitable public open space to comply with policy LPRINF1 can be achieved within the appeal site)
- 6.4 Whether the indicative layout of 117 dwellings creates poor design such as a cramped layout in the NE corner and at the site entrance and a proximity of dwellings to the southern, eastern and western boundaries, and whether those questions need to be resolved at outline stage
- 6.5 Access issues – whether safe and suitable cycle access towards/from Marden via Albion Road can be achieved
- 6.6 Ecology & Biodiversity –
 - i. The impact of the proposed development on the protected and priority species of turtle doves and yellowhammers.
 - ii. Whether the provision of on-site nesting habitat for turtle doves/yellowhammers is compatible with meeting useable Public Open Space requirements and can provide suitable and full compensation for the quantity of suitable nesting habitat to be lost.
 - iii. Whether the artificial badger sett will be achievable and how this will be compatible with meeting useable/accessible Public Open Space requirements.
 - iv. The terms of any conditions relating to other biodiversity matters.

7. Matters not in Dispute

- 7.1 The following matters are not in dispute:

Principle of Development

- 7.2 The LPR sets out the spatial strategy for the Borough and policy LPRSP10 specifies that a minimum of 19,669 new dwellings are planned over the plan period 2021-2038. Policy LPRSS1 refers to the importance of allocations in helping to provide for the housing target of a minimum of 19,669 dwellings.
- 7.3 Policy LPRSA295 allocates the Appeal Site for residential development comprising approximately 113 dwellings. The Appeal proposal is for up to 117 dwellings and is therefore considered to be within the range allowed by the term 'approximately'.
- 7.4 The principle of residential development and the quantum of approx. 113 dwellings is considered to be established through Policy LPRSA295.
- 7.5 It is agreed that the Local Plan should be read as whole.

Other matters of agreement

- 7.6 The Site is in a sustainable location where additional housing would contribute to the vitality and viability of existing shops and services.
- 7.7 It is agreed that the Appeal scheme would cause no material harm to the setting of the High Weald National Landscape.
- 7.8 The revised Tree Retention /Removal Plan 22037/SK30B is accurate when compared to the revised site layout 22037/SK25K.
- 7.9 That no objections were raised to the appeal scheme in principle from consultees in respect of:
- Housing / Affordable Housing
 - Planning Policy (MBC State – the Policy section made no comments)
 - Parks and open space (MBC state – were misled by statements made in DAS which they took in good faith and did not interrogate the public useability of the spaces indicated)
 - Environmental Protection
 - Minerals and waste

- Drainage/flood risk Southern Water/Local Lead Flood Authority
- Archaeology & Heritage

7.10 Kent County Council as Lead Local Flood Authority confirms that the drainage strategy is acceptable in principle subject to conditions, and subject to further detailed calculations and design at reserved matters stage, the proposal can be made acceptable in flood risk and drainage terms.

7.11 Due to the orientation and scale of buildings proposed, and the separation distances involved, it is considered that the existing residential amenities of those neighbouring properties located at Russets Grove could, in principle, be adequately safeguarded at Reserved Matters stage.

7.12 Biodiversity Net Gain of 20% to comply with policy LPRSP14(A) of the Maidstone Borough Local Plan Review 2024

7.13 Reason 7 can be withdrawn subject to the Inspector accepting a completed Section 106 Agreement that secures KCC's request for contributions towards primary, secondary and SEND education, along with other matters as set out below.

- i) provision of 40% affordable housing/First Homes on site (to an agreed tenure and size mix) with a preference for social rented tenure.
- ii) Public Open Space financial contribution (Publicly Accessible Outdoor Sports – equivalent 0.48 ha requirement)
- iii) Off-site highway enhancements/provision including financial contribution towards Public Right of Way (PROW) upgrade – PROW KM281 subject to confirmation of ownership of the PROW is entirely with Kent County Council.
- iv) Education Contributions to KCC for Primary, Secondary and Special Education Needs and Disabilities
- v) Monitoring Fee for Biodiversity Gain Plan
- vi) S106 monitoring fees.

Benefits of the Appeal Scheme

- 7.14 In summary, it is agreed that the public benefits of the proposal, if allowed, would be:
- The provision of 117 dwellings to respond to housing need.
 - The inclusion of 40% affordable units, which is a policy compliant level of affordable housing subject to size/tenure meeting local needs
 - the delivery of additional public open space useable by non-residents
 - Economic benefits from the delivery of housing and related jobs during and post construction.
- 7.15 MBC considers the following are policy requirements are mitigation of the needs generated by the development so are not public benefits – appellant disagrees.
- biodiversity net gain on the site and landscape enhancements
 - Infrastructure funding – through CIL and/or S106 contributions

8. Suggested Planning Conditions

8.1 To be completed by the LPA. To follow