

NOTES FOR TECH		
<b>APPLICATION PROPOSAL</b>		<b>Ref No 23/504068/OUT</b>
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.		
<b>ADDRESS</b> Land East Of Albion Road And North Of Copper Lane Marden Kent TN12 9EG		
<b>RECOMMENDATION</b> - Application Refused		
<b>WARD</b> Marden And Yalding	<b>PARISH/TOWN COUNCIL</b> Marden	<b>APPLICANT</b> Rydon Homes Limited <b>AGENT</b>
<b>DECISION DUE DATE</b> 25/12/23	<b>PUBLICITY EXPIRY DATE</b> 30/11/23	

### **Relevant Planning History (adjoining site)**

17/504754/FULL

Erection of 124 dwellings with parking, vehicular and pedestrian access and associated hard and soft landscaping.

Approved 09.08.2018

### **DESCRIPTION OF SITE**

- The site is approx. 6ha in size and is located beyond the south eastern extent of the village boundary of Marden and thus sited within the countryside.
- To the north is the southern edge of a recent housing development (Russet Grove) of 124 houses/apartments. To the east are horse grazing paddocks and to the west is an arable field. The southern edge fronts a long length of Copper Lane (approx. 200m)
- Part of the front garden of a neighbouring residential property "The Howlands" is to be used in the development scheme for the access/northern visibility splay to Albion Road with a replacement access being provided for that dwelling off the estate road. This additional land is not in the draft allocation LPRSA295 and effectively brings in rural garden land into the application site to widen the entrance of the site abutting Albion Road from 30m to 40m.
- Most of the site is farmed with commercial fruit orchards to within approx. 40m of Copper Lane with a series of natural wet ponds along the Copper Lane boundary. A smaller western land oblong parcel fronts onto Albion Road, with an existing field access with 2 small agricultural sheds to be demolished. There are generally trees/hedgerows to the site boundaries with the southern boundary to Copper Lane being a low hedgerow as is most of the southern boundary of the parcel of land fronting Albion Road.
- The main part of the site is on sloping land, the highest part is at the NW at the access to Albion Road at 32mOD, this falls to 29.8mOD in the NE corner. The land at Copper Lane is generally level from the SW corner (24.5mOD) to the SE corner at 23.15mOD. Hence is an overall drop of approx. 7 N-S through the site.
- It is an Area of Archaeological Interest and Grade 3 Agricultural land being in Amber Zone for Great Crested Newts. In landscape terms it is in the Low Weald Character Area (Staplehurst Low Weald) and in the setting of High Weald AONB

- It lies in the EA's Flood Zone 1, the lowest risk. However, it is understood there has been flooding of local roads such as Thorn Road and Copper Lane and that some of the existing ponds in the south of the site have overtopped on occasion.

## **PROPOSAL**

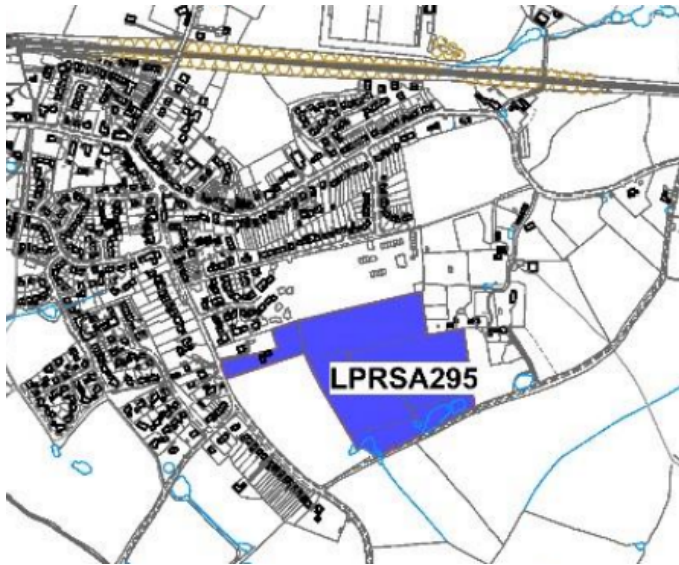
- The application is in outline with only access not reserved. There is an indicative layout for 117 dwellings with a mix of 1 and 2 bed apartments and 2, 3 and 4 bed houses. The application will comply with affordable housing policy of 40%. The indicative layout shows mostly 1.5 storey buildings at the southern extent of the layout
- Access to the site is proposed via an all-purpose access from Albion Road to the west. An additional pedestrian/cycle/emergency access to the site is also proposed from Copper Lane to the south west corner.
- No pedestrian footway or cycleway is proposed along Albion Road but public footpath KM281 which runs westwards opposite the site entrance is proposed as the pedestrian route towards the village.
- A future pedestrian link in the NE corner to Russet Grove is indicated in the Design and Access Statement as "subject to a legal agreement".
- Existing ponds to the south of the site will be retained and potentially bunded on the southern sides to reduce overtopping floods. They will not form part of the formal drainage strategy. For SuDS, a large new attenuation basin (with boardwalk over) eventually draining to a local watercourse is proposed together with swales in the rest of the site. However, there is no detailed surface water drainage strategy so the SuDS is general outline only at this stage.
- Two pockets of orchard trees are indicated to be retained as community orchards, being 6 rows each of 20m in length.

## **POLICY AND OTHER CONSIDERATIONS**

Maidstone Borough Local Plan (MBLP) 2017- SS1, SP17, SP19, SP20, SP23, ID1, DM1, DM3, DM8, DM19, DM21, DM30  
 Neighbourhood Plan: Marden (2019) (MNP) NE3, NE4, BE1, A2, A3, In2  
 Kent Waste and Minerals Plan (amended 2020)  
 The National Planning Policy Framework (NPPF) (revised 2023)  
 National Planning Practice Guidance (NPPG):  
 Maidstone Landscape Character Assessment 2012 (Updated 2013)  
 Supplementary Planning Documents: Maidstone Building for Life 12 (2018); Affordable and Local Needs Housing (2020); Air Quality Guidance (2017); Public Art Guidance (2017)  
 Natural England guidance 'Wild birds: advice for making planning decisions', published 14 January 2022, states LPAs must have regard for the conservation of Section 41 species [under the NERC Act 2006].

The Regulation 22 Local Plan Review (LPR) submission comprises the draft plan for submission (Regulation 19) dated October 2021, the representations and proposed main modifications. It is therefore a material consideration and attracts some weight. The LPR has been through Stage 1 and 2 Hearings and the main modifications the Inspector considers are required to make it sound were out to public consultation ending on 13<sup>th</sup> November 2023, so it is at an advanced stage. However, responses to the consultation need to be considered by the Inspector along with him producing his Final Report so the LPR is considered to attract "moderate" weight at the current time.

The application site is allocated under draft policy LPRSA295 for “approximately” 113 dwellings. In the Stage 2 Modifications, an error in the Regulation 19 proposed settlement boundary near the allocation is amended as below:



Stage 2 Modification

Also, an extra criterion is added to the draft policy of “*an Ecological Impact Assessment of the development site and any additional land put forward for mitigation purposes to take full account of the biodiversity present.*”.

## LOCAL REPRESENTATIONS

### Local Residents:

- Notifications were sent to 74 residents and 3 site notices displayed at Albion Road, Thorn Road and the gated access to Copper Lane. A Press Notice was also published.
- 65 representations have been received objecting to the application for the following (summarised) reasons:
  - Site is unsuitable for development especially such a high number of dwellings
  - Contrary to adopted local plan with a 5 year housing land supply
  - Inadequate infrastructure and services in Marden eg nurseries, schools, doctors, dentists.
  - Low water pressure in village
  - Sewers cannot cope
  - Development should be on brownfield sites not orchards
  - Marden has reached its capacity for new development with +35% growth in recent years
  - Marden should not grow to the south.
  - Visual harm

- Land is elevated so obtrusive in a sensitive landscape of lower weald
- This is not an alternative to development north of Marden
- Loss of quality agricultural land
- 2.5 storey dwellings not acceptable
- Increase in traffic
- Travel Plan is unrealistic
- Local Rail services already full – people will travel to Staplehurst for the trains.
- Needs connectivity to the village via footpath on Albion Road for all types of pedestrians including mobility impaired
- Copper Lane should be a “quiet lane”
- Access will be dangerous opposite driveway and a PROW
- PROW is not wide enough to provide access to village centre
- Visibility splay to north is blocked by a hedgerow which the developer does not own
- Too near dangerous junction of Albion Road/Thorn Road/Plain Road
- Traffic calming needed and lower speed limit
- Traffic Assessment needs to take account of increase in larger delivery vehicles
- Inadequate parking
- Flood Risk to Thorn Road and Copper Lane
- Question the claimed BNG.
- The green spaces are “suburban” of limited ecological value.
- Harm to wildlife including turtle doves, owls, yellowhammers, linnets, nightingales, Kestrels and Kingfishers
- Impact of additional lighting
- Noise survey is inaccurate.
- Fire risk to thatched cottages downwind from bonfires, fireworks etc
- Occupants will be from outside Marden who do not wish to live in the countryside
- SUDS will eventually change the hydrology of local Priority Habitats and SSSIs.
- Frequent power cuts will mean sewage cannot be pumped.
- harm to air quality
- Damage to property by construction traffic

#### Marden Wildlife

- The ecology consultants are not local and did not properly engage with local wildlife groups to gain up to date data.
- Wildlife surveys are inadequate.
- Impact of domestic cats and dogs on local habitats not considered
- Bird mitigation inadequate

#### **Marden Parish Council**

- Objection:
  - Site sits outside the settlement boundary so is not compliant with MBC Local Plan Policy SP17
  - Visually harmful
  - Number of units is too high for an edge of village location
  - Public footpath KM281 not suitable (esp wheelchair and pushchair users) as the principal route for pedestrians to the facilities in the village centre
  - A footway along Albion Road thus must be provided to an acceptable standard to meet the Manual for Streets / Inclusive Mobility guidance and capable of passing a road safety audit
  - Lack of connectivity/permeability for walking/cycling
  - the biodiversity information is inadequate and out of date
  - surface water flooding of Copper Lane affecting safe and effective use of the proposed emergency and pedestrian / cycle access
  - Albion Road constrained by on street parking
  - Congested road connections/junctions in Marden and locality
  - Poor bus services and rail services over capacity
  - Limited local employment opportunities
  - Marden has poor electricity supply

### **Councillor Russell**

- Objection:
  - Whilst it is an allocated site within the Local Plan Review, the Review has not yet been adopted.
  - SP17 should be given great weight
  - The allocation within the plan review is for 113 houses, not the 117 that has been applied for.
  - Overly cramped and dense for an edge of settlement location.
  - Should connect to the Russet Grove estate
  - The water system in is under strain,
  - Sewerage is under strain
  - Power cuts are common place
  - Ecological survey provided within the application shows a significant local bat population and common lizard, grass snake and slow worm species, some of which are located in the area designated for the most dense development.
- Issues such as low water pressure, power cuts, fire risk, future occupants, damage to neighbouring dwellings by construction traffic are not material planning considerations.

## **CONSULTATIONS**

(Please note that summaries of consultation responses are set out below. Comments are discussed in more detail in the appraisal section where considered necessary).

#### Southern Water Services

- No objections subject to condition that occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate waste water network capacity is available to adequately drain the development.

#### Natural England

- No objections subject to Standing Advice on Protected Species, Landscape, Best and most versatile agricultural land and soils, Local sites and priority habitats and species, Green Infrastructure, Access and Recreation.

#### Active Travel England

- No objections subject to Standing Advice: Active travel and sustainable development which refers to increasing travel for short journeys by walking, wheeling and cycling e.g. significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.

#### KCC Highways

- Objections:
  - No Stage 1 Road Safety Audit and designers response
  - More information needed on raw data for traffic survey
  - Recalculation of visibility splays needed on Albion Road and emergency access on Copper Lane
  - Investigate including overrun areas in the junction for larger vehicles
  - An extension of the existing footway on Albion Road is needed to provide a quicker and clearer route to Marden village centre by pedestrians and cyclists.
  - Clarity needed on traffic calming scheme for Albion and Thorn Road
  - Trip generation data needs sensitivity testing

#### KCC Drainage

- No objections subject to conditions for a detailed sustainable surface water drainage scheme and that surface water drainage for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm can be accommodated within the proposed development layout.

#### UMIDB

- No objections subject to Land Drainage Consent and potentially consent would be required under the Land Drainage Act 1991 from KCC (as Lead Local Flood Authority).

#### KCC Developer Contributions

- Kent County Council objection subject to s106 for developer contributions. Maidstone Borough Council is a CIL Authority but there will be impacts upon County services that cannot be accommodated within existing capacity. The request is for Primary, Secondary and Special Education Needs and Disabilities totalling £1,141,485.84. Also, KCC Communities' Services of £18,809.33; Social Care of £21,162.96; Waste/Recycling of £6,084.00.
- KCC requests that Maidstone Borough Council allocates it the CIL funds received from the development. Should CIL receipts be insufficient to cover the impacts demonstrated, then KCC requests that S106 also be applied (they say this is identified as best practice under the CIL Regs as amended August 2023).

#### KCC Heritage

- No objection subject to condition for archaeological field evaluation works due to potentials for prehistoric activity, particularly Bronze Age and Iron Age activity.

#### KCC Biodiversity

- Objection: Need clarification on badger mitigation and further information on
  - Breeding bird surveys;
  - Habitat quality at the site for turtle dove (vulnerable to extinction at a European and global scale) and any potential impacts from increased disturbance, predation or a loss of foraging habitat.
  - turtle dove mitigation options
  - great crested newt mitigation;
  - reptile mitigation during site clearance and construction;

#### Kent Police

- No objection subject to condition on Secured by Design including amenity space for young people.

#### Kent Minerals and Waste

- No objection

#### Kent Wildlife Trust

- Objection due to impacting on turtle doves, other red list and protected bird species, because of loss of habitat, food sources, increased cat predation and artificial lighting. Suggest larger area of scrub nesting habitat for birds is created along Copper Lane and a wildlife sensitive lighting design scheme. Cat proof fencing should be installed and prickly vegetation to the eastern boundary. Suggest a contribution to KWT and Marden Wildlife Group's 2024 turtle dove research programme. The site falls within Natural England's Impact Risk Zone for Marden Meadows SSSI and drainage pathway exists from the site. Concerned that the Biodiversity Net Gain assessment is overstated.

#### CPRE

- Objection for the following reasons:
  - Loss of greenfield land
  - Adverse impact on biodiversity

- Inappropriate to mitigate habitat loss in areas of proposed public open space
- Loss of trees
- Unclear if bungalows are included
- linkages needed to the Russet Grove development
- needs a network of active travel routes
- lighting should be restricted
- arboricultural report unclear on tree loss

#### MBC Housing

- No objection subject to securing First Homes and Affordable Housing with tenure/sizes related to local needs.

#### MBC Parks

- No objection

#### MBC Environmental Protection

- No objection subject to conditions on noise, EV rapid charging, AQ assessment, contamination and code of construction.

### **APPRAISAL**

- The key issues are:
  - Spatial Strategy
  - Character and Appearance
  - Biodiversity and protected species
  - Biodiversity Net Gain
  - Open Space
  - Lighting

#### **Spatial Strategy**

- Policy SS1 of the MBLP deals with the spatial strategy for the borough. For areas outside defined settlements such as the application site, the policy gives protection to the rural character of the borough.
- Local Plan Policy SP17 states that development proposals in the countryside will only be permitted where:
  - a) there is no harm to local character and appearance, and
  - b) they accord with other Local Plan policies
- The application site lies in the countryside and residential development of this extent 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.



- 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 its spatial strategy with the resulting harm to the character and appearance of the countryside as described below.

### **Character and Appearance**

- In addition to policy SP17 referenced above, Policy NE3 of the MNP states that all developments should be designed to ‘integrate into their surroundings in the landscape and contribute positively to the conservation and enhancement of that landscape’. Policy BE1 of the MNP says development proposals should be designed to and respect and enhance the existing character of the village.
- Policy SP17 requires account to be taken of the Maidstone Borough Landscape Character Guidelines. The site meets one of the key characteristics of the Staplehurst Low Weald which is that of low lying gently undulating clay landscape of small fields with orchards, pasture, ponds and watercourses enclosed by thick native hedgerows creating an intimate atmosphere. The Maidstone Landscape Character Assessment (update 2013) states the area has high sensitivity and good condition with the guidance being to “conserve”.
- The applicant’s LVIA has been independently reviewed and it has been concluded as being inadequate in that the wrong national and local plan policies are cited which significantly and materially affects the robustness of the applicant’s analysis: for example, SP17 is ignored completely and the LVIA does not define the application site as being “countryside”. The baseline landscape analysis identifies the sites key landscape elements and features, but fails to fully consider landscape value. It evaluates the sensitivity of the landscape at a lower ranking than the published guidance. The justification for this is weak and partly relates to the flawed policy analysis. The visual baseline lacks key view analysis, especially in relation to what the DAS considers visually sensitive areas and views are not provided from at least one key viewpoint.
- The site is slopes down significantly but very limited cross section drawings have been provided to demonstrate that the siting and layout takes account of the topography. 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 because not enough distance is achievable between the perimeter trees, hedging and ponds and the indicative extent of proposed built development.
- 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 harmful visual impact from a layout and siting of built development of a suburban form extending into the rural landscape, significantly harming its character and appearance. The indicative layout shows cramped overdevelopment along the access road entrance and in the NE corner and a proximity of dwellings to the southern, eastern and western boundaries that cannot be effectively screened by new planting due in part to the intervening ponds and proposed attenuation basin. There will also be significant harm from external lighting and additional engineering to form the access onto Albion Road, a rural lane.
- The Tree Report (Arboricultural Implications Assessment) factors in the removal of trees based on the indicative layout which is not logical as this is an outline application with layout being a reserved matter. For example, the silver birch windbreak E-W through the site is indicated as category B/C but the middle

section is shown to be removed and no continuous tree belt replaces it. There is no scope for adequate E-W and N-S belts of tree planting to break up the roofscape of the development and better respect the historic field pattern of the Staplehurst Low Weald. There is a significant loss of the orchard with only 2 very small areas being retained and this is again contrary to conserving what is a defining land use important to conserving the landscape character of the Staplehurst Low Weald.

- The development overall would erode openness and the sense of tranquillity, result 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 south east and therefore significantly harmful to the character and appearance of the countryside which are the two primary tests of "harm" in adopted policy SP17. The application is also therefore contrary to policy NE3 of the MNP.
- The proposal would consequently also be contrary to policies DM1 and DM30 of the MBLP which both require high quality design. Policy DM1 requires development to respond positively to, and where possible enhance, the local, natural or historic character of the area and DM 30 requires impacts on the appearance and character of the landscape to be appropriately mitigated.

### **Biodiversity and Protected Species**

- Case law is that the presence or otherwise of protected species and the extent that they may be affected by the proposed development, must be established **before** a planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
- The NPPF (2023) para 180 states planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing sites of biodiversity and also that they should minimise impact on and provide net gains for biodiversity.
- Policy DM3 of the MBLP requires development proposals to appraise the value of the borough's natural environment through the provision of an ecological evaluation and any additional land put forward for mitigation purposes to take full account of the biodiversity present.
- The Marden Neighbourhood Plan (2019) policy NE3 requires lighting systems to reduce visual intrusion and negative impacts on wildlife.
- The development as indicated will cause loss of turtle dove habitat both directly and indirectly. Turtle dove are the UK's fastest-declining bird species, and as well as being a priority and red list species in the UK, are listed as vulnerable on the global IUCN Red List of threatened species. There are records of these birds nesting within the application site, particularly within hedgerow along the eastern boundary, and on land immediately adjacent to the site. There are three turtle dove feeding strips close to the site which support significant numbers of birds and neighbouring parcels of land are providing winter food for birds. Very little information on turtle dove activity has been provided as part of the submission and the most up to date surveys from local wildlife groups and ecologists have not been utilised. The submitted ecology report does not acknowledge any potential impacts from increased disturbance, predation or a loss of foraging habitat and therefore mitigation options are not adequately explored.
- The applicant has also not been clear on proposed mitigation for Great Crested Newts, nor how much suitable GCN habitat will be affected by proposals and it is

also unclear is how other reptiles displaced during habitat manipulation will be supported whilst construction takes place.

- Overall, the ecological information in the planning application is deficient and as well as not allowing a proper assessment of the scheme against local and national planning policies, it would be unlawful to issue a planning permission with the absence of enough detail on the presence of protected species and the extent to which they may be affected.

### **Biodiversity Net Gain**

- Statutory Biodiversity Net Gain (BNG) for 10% has not yet been enacted and in any case would apply to relevant planning applications submitted **after** enactment.
- The adopted Local Plan is silent on the concept of BNG. The emerging LPR policy LPRSP14A is currently proposed to be modified to say 20% Biodiversity Net Gain will be expected but is no longer to have a caveat of having to be “on-site”. Nevertheless, the biodiversity gain hierarchy is that on-site is the first option and in the case of the application site, should be achievable.
- The NPPF and Policy NE4 of the MNP require developments to provide a biodiversity net gain (percentage not specified).
- The submitted Biodiversity Net Gain Assessment using DEFRA Biodiversity Metric v4.0 states the existing land use is plum and apple orchard, bounded by hedgerows and trees with scrub in the northwest of the site and ponds fringed by grassland in the south along Copper Lane. The orchard, grassland and mixed scrub habitats which are currently present within the site are said to be of “poor quality” and lacking in diversity.
- The report itself concludes that a BNG assessment is based on habitats and not measures directly related to protected or notable species and that it should not be the sole approach adopted when considering the validity of the site proposals in the context of local and national biodiversity planning policy.
- The BNG metric submitted shows over 27% which would exceed both emerging national and local targets. Whilst KCC’s Biodiversity Officer has not questioned the accuracy of the calculation, the Orchards on the site have been assessed as “*Intensive Orchards*” with a low score for distinctiveness and a default “n/a” for condition assessment. Their high landscape value in the locality and value for pollinators etc is unfortunately not able to be factored into the metric.

### **Open Space**

- The proposed indicative open spaces would be a mix of formal and informal recreational spaces, including local areas of play and 2 community orchards. However, it is not considered that MBLP policy DM19 (Open Space) is complied with in terms of quality or typology. The applicant refers to a “greenway” but most of that is simply indicated as the main spine road with verges and street trees which is a standard expectation to comply with the NPPF.
- The main deficiency in Public Open Space is in the amount of natural and semi-natural open space both in quantum and public useability. The attenuation basin 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. On the contrary, amenity green space is over-provided relative to the quantity derived from DM19.

- Policy A2 of the MNP is also relevant, saying that all major development should provide areas of amenity, recreation, woodland, ponds or other water features and these to be retained for community use with links being provided.

### **Lighting**

- Para 191 of the NPPF requires a limit of the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.
- Policy DM8 of the MBLP states that lighting should not be visually detrimental to its immediate or wider setting. Policy NE3 of the MNP also requires artificial lighting systems to reduce both visual intrusion and negative impacts on wildlife.
- The scheme will inevitably introduce a need for external lighting to roadways, footways and domestic security lighting. Artificial lighting has been shown to negatively impact on ecology and lighting within the site could have a particularly detrimental impact on the nesting turtle dove. The impact of lighting on the existing and proposed semi natural habitats to the southern section of the site is also potentially of concern: the indicative layout does not appear to have been designed to take this issue into account as roads and footways are not adequately set back to allow those peripheral ecologically important areas to remain dark.

### **Highways**

- The NPPF para 114 requires safe and suitable access to be achieved for all users and policy DM1 of the MBLP requires safe accommodation of the vehicular and pedestrian movement generated by the proposal on the local highway network and through the site access, as does policy In3 of the MNP. Policy DM21 of the MBLP 2017 requires a satisfactory Transport Assessment.
- Albion Road has a varying carriageway width of around 5.0m– 5.5m, routes in a north-west south-east alignment, has street lighting and is subject to a 30mph speed limit. There are no footways along Albion Road in the vicinity of the site frontage.
- In terms of sustainability, the site is a walkable distance from a mainline station with services to London Charing Cross and Ashford International (and beyond to Dover and Ramsgate). 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. Collectively, the bus services provide a service approximately every two hours between Marden and Maidstone Monday to Saturday which could be used by commuters to Maidstone. The site in terms of location is therefore environmentally sustainable but there are concerns with lack of safe new pedestrian and cyclist highway infrastructure to Albion Road as discussed below.
- The application includes a potential traffic calming scheme with a range of features designed to slow the speed of vehicles on approach to and when leaving the village. This would mainly comprise surface treatments, a build out to the south of Plain Road and reconfiguration of the junction of Albion Road/Plain Road Thorn Road.
- KCC Highways have submitted a holding objection with technical reasons in terms of the data and highway design in the Transport Assessment and these are currently unresolved and need to form a reason for refusal. KCC have however confirmed that the visibility splays can be achieved within the land controlled by the applicant or within the confines of adopted highway verges.

### **Cycling and Walking**

- Paragraph 96 of the NPPF requires encouragement of walking and cycling and para 108 requires that opportunities to promote walking, cycling and public transport use are identified and pursued. The Planning Practice Guidance refers to encouraging active travel. Policy SP23 of the MBLP requires improved transport choice across the borough and seeks to influence travel behaviour in the interests of active travel. Policy DM1 requires designs and layouts that are accessible to all, and maintain and maximise opportunities for permeability and linkages to the surrounding area and local services. Policy In2 of the NP says development should be designed to maximise travel on foot and by cycle and provide direct links to village facilities and public transport services via off-road and lightly trafficked routes, or through improvements for non-motorised users on busier existing routes.
- The Transport Assessment includes an Audit of Active Travel Routes in line with the expectations of Active Travel England's toolkit.
- The site is at the far southern end of Marden, some distance from the railway station and shops but there is no cycle link etc proposed or indication of contribution thereto.
- Public footpath KM281 connects Albion Road (broadly opposite the proposed access to the site) and public footpath KM283 via Blossom Way. The applicant proposed that route forms the main pedestrian route between the site and the amenities in the village centre or to amenities to the west side of the village. It will surface most of the route (except for a privately owned section gravelled nearest Albion Road) and widen it to 1.2- 1.5m.
- Hence there are fundamental concerns from a highway safety point of view as the application does not provide any pedestrian, wheeled or cycle infrastructure at all along Albion Road towards the village. This does not align with the pre-application scheme which did show a pedestrian footway being created towards the village.
- The scope for a link via Russet Grove allowing safe walking and cycling to footways in Albion Road has not been secured.
- The submission fails to secure good walking, wheeling and cycling infrastructure to local services and facilities and is also unsuitable to meet the needs of the mobility impaired or users of pushchairs. This contrary to the objectives of social inclusivity, highway safety and environmental sustainability.

### **KCC Contributions**

- Policy A3 of the MNP refers to securing appropriate funding for Marden Primary School from developments which lead to a requirement for additional capacity and resources.
- KCC advise there is inadequate local existing capacity to their services including Primary, Secondary and Special Education Needs and Disabilities totalling £1,141,485.84 and KCC Communities' Services of £18,809.33; Social Care of £21,162.96, waste/recycling of £6,084.00. This totals £1.187m.
- No education project has been awarded with any CIL from MBC to date, having operated as a CIL authority since 2018.
- With the issues of affordable housing being CIL exempt and with Marden Parish Council having a neighbourhood plan which means they receive 25% of the CIL

from the site, the amount of remaining index linked CIL from this scheme could be in the order £600k. Hence, even if in theory the CIL from the site were ring fenced to Marden, it would fall far short of mitigating the deficiencies in education that KCC identify.

- KCC request that the developer enter into a s106 to agree to pay supplementary payments in the event that CIL receipts are insufficient to cover the impacts demonstrated. KCC advise this is identified as best practice under the CIL Regs as amended August 2023. KCC have provided an example of where an Inspector making a decision in Sevenoaks (also a CIL authority) supported such an approach in principle.
- Policy ID1 of the MBLP identifies a hierarchy of infrastructure priorities for residential development. Education is 6th out of 11 types followed by Social services with Libraries being 9<sup>th</sup>.
- The Council's latest Infrastructure Delivery Plan (IDP) from Dec 2022 identifies expansion of both Marden (0.6FE) and Staplehurst (0.5FE) Primary Schools as necessary infrastructure projects plus expansion of Cornwallis Academy, Loose by 1 FE. On this basis, the request of KCC in terms of education is supported in principle but would need to be subject of more detailed investigation/negotiation.
- The applicant has not specifically refused to enter into such a legal agreement in principle but would firstly need to assess the overall financial implications including those on the landowner as the applicant is not the current owner of the land.

### **Local Plan Review**

- In terms of the moderate weight of the LPRSA295, the LPR is "landscape blind" in that, unlike for the adopted Local Plan, there has been no landscape sensitivity testing of draft allocated sites. Therefore, it is only at the planning application stage where landscape impact must be fully considered. This has recently been endorsed in an appeal decision at Northdown Business Park in Lenham for a draft employment allocation whereby the Inspector considered the quantum of development **much less** than that referred to in draft policy LPRSA260 was not demonstrated to be achievable, taking into account the landscape criteria the policy also required to be met.
- Hence, the approximate dwelling number in draft policy LPRSA295 establishes little more than the principle of development. Even if the LPR draft policy LPRSA295 were to be adopted and take on full weight, to protect existing ecological habitats on site and screen the development so that the harm on the character and appearance of the area is mitigated, much more of the site would need to be given over to buffer planting at the perimeters of the site, E-W and N-S tree belt planting and to provide more useable natural and semi-natural open space. The caveats within the draft policy would significantly reduce the number of dwellings that could be acceptably accommodated on the application site.

### **Other Matters**

- There are not considered to be issues with residential amenity to properties in Russet Grove bearing in mind the outline nature of the application.
- Affordable Housing policy SP20 as amended by national policy on First Homes is intended to be complied with.
- Local Resident concerns about inadequate local services would be expected to be dealt with by CIL except for education as discussed above.

- There are no technical reasons why acceptable sewage infrastructure cannot be provided, notwithstanding the need for a pumping station.

### **PUBLIC SECTOR EQUALITY DUTY**

- Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

### **Community Infrastructure Levy**

- The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25 October 2017 and began charging on all CIL liable applications approved on and from 1 October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

### **CONCLUSION**

- Residential development of this extent in the countryside does not accord with the MBLP Spatial Strategy policy SS1. There are no exceptional circumstances that would justify the harm to the character and appearance of the countryside.
- The development would erode openness and the sense of tranquillity, result 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 south east and therefore significantly harmful to the character and appearance of the countryside contrary to MBLP policies SP17, DM1, DM30 and policy NE3 of the MNP.
- Whilst LPR policy LPRSA295 is a draft allocation of moderate weight, the indicative number of dwellings in this application cannot be satisfactorily accommodated as more substantial buffer planting would be needed at the perimeters of the site plus E-W and N-S tree belt planting and more useable natural and semi-natural open space.
- The ecological information does not allow a proper assessment of the scheme against local and national planning policies and the need to fully assess all protected species and the extent to which they may be affected. External lighting will impact on the existing and proposed semi natural habitats and protected species. The application is contrary to policies DM3 of the MBLP and policies NE3, NE4 of the MNP.
- There is a deficiency in Public Open Space in the amount and public useability of natural and semi-natural open space relative to policy DM19 of the Local Plan and there is non-compliance with policy A2 of the MNP.
- KCC Highways have submitted a holding objection in terms of the data and highway design in the Transport Assessment in the context of policies DM1 and DM21 of the MBLP 2017.
- The submission fails to secure good walking, wheeling and cycling infrastructure to local services and facilities and is also unsuitable to meet the needs of the mobility impaired or users of pushchairs, contrary to policies DM1 and DM23 of the MBLP 2017, policy In2 of the MNP and the PPG's encouragement of "Active Travel".

- The request of KCC in terms of financial contributions towards primary and secondary and SEND education is supported in principle in accordance with Local Plan policy ID1 and Policy A3 of the MNP but would need to be subject of more detailed investigation/negotiation.

### **EIA Screening**

EIA Development	No
Comments	The number of units is less than the threshold in the Guidance for the EIA Regulations 2017 and the site is not in an environmentally sensitive area as defined in those Regulations.

**RECOMMENDATION** – Application Refused subject to the following conditions/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.

## INFORMATIVES

(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.

Delegated Authority to Sign:	Date:
  PRINT NAME: Rob Jarman	21/12/2023