

28 July 2022 at 7.00 pm

Council Chamber, Argyle Road, Sevenoaks

Published: 20.07.22



This meeting will be livestreamed to YouTube here:

https://www.youtube.com/channel/UCLT1f_F5OfvTzxjZk6Zqn6g

Development Control Committee

Membership:

Chairman, Cllr. Williamson; Vice-Chairman, Cllr. Pett
Cllrs. Ball, Barnett, Brown, Cheeseman, Perry Cole, P. Darrington, Edwards-Winsor, Hogarth, Hudson, Layland, McGarvey, Osborne-Jackson, Purves, Raikes, Reay, Streatfeild and Williams

Agenda

There are no fire drills planned. If the fire alarm is activated, which is a continuous siren with a flashing red light, please leave the building immediately, following the fire exit signs.

	Pages	Contact
Apologies for Absence		
1. Declarations of Interest or Predetermination Including any interests not already registered		
2. Declarations of Lobbying		
3. Planning Applications - Chief Planning Officer's Report		
3.1 20-02988-OUT - Land North Of Town Station Cottages, Forge Croft, Edenbridge KENT TN8 5LR	(Pages 1 - 154)	Aaron Hill Tel: 01732 227000
Outline application for the erection of 340 dwellings, including affordable housing, land for a 4FE secondary school including playing fields, land for a new twin hall venue for Edenbridge Scout Group, creation of a new car park for Edenbridge Town Station and associated infrastructure improvements, allotments, associated access from Four Elms Road, emergency access, open space, attenuation areas and landscaping and some matters reserved save for means of access.		

4. Tree Preservation Order

- 4.1 **Tree Preservation Order (TPO) 3 of 2022 - Bluebell Paddock is situated to the west of the A227 Gravesend Road, Hodsoll Street, between Oak Farm House and Rough Lea.** (Pages 155 - 158) Les Jones
Tel: 01732 227000

EXEMPT INFORMATION

At the time of preparing this agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public.

Any Member who wishes to request the Chairman to agree a pre-meeting site inspection is asked to email democratic.services@sevenoaks.gov.uk or speak to a member of the Democratic Services Team on 01732 227000 by 5pm on Monday, 25 July 2022.

The Council's Constitution provides that a site inspection may be determined to be necessary if:

- i. Particular site factors are significant in terms of weight attached to them relative to other factors and it would be difficult to assess those factors without a Site Inspection.
- ii. The characteristics of the site need to be viewed on the ground in order to assess the broader impact of the proposal.
- iii. Objectors to and/or supporters of a proposal raise matters in respect of site characteristics, the importance of which can only reasonably be established by means of a Site Inspection.
- iv. The scale of the proposal is such that a Site Inspection is essential to enable Members to be fully familiar with all site-related matters of fact.
- v. There are very significant policy or precedent issues and where site-specific factors need to be carefully assessed.

When requesting a site inspection, the person making such a request must state under which of the above five criteria the inspection is requested and must also provide supporting justification.

If you wish to obtain further factual information on any of the agenda items listed above, please contact the named officer prior to the day of the meeting.

Should you need this agenda or any of the reports in a different format, or have any other queries concerning this agenda or the meeting please contact Democratic Services on 01732 227000 or democratic.services@sevenoaks.gov.uk.

4.1 20/02988/OUT Revised expiry date 2 May 2022

Proposal: Outline application for the erection of 340 dwellings, including affordable housing, land for a 4FE secondary school including playing fields, land for a new twin hall venue for Edenbridge Scout Group, creation of a new car park for Edenbridge Town Station and associated infrastructure improvements, allotments, associated access from Four Elms Road, emergency access, open space, attenuation areas and landscaping and some matters reserved save for means of access.

Location: Land North Of Town Station Cottages, Forge Croft, Edenbridge KENT TN8 5LR

Ward(s): Edenbridge North & East

Item for decision

This application has been referred to Development Control Committee at the discretion of the Chief Planning Officer, as the development is of a significant nature being major development within the Green Belt.

RECOMMENDATION A: That the committee resolve that application that planning permission be GRANTED subject to:

- a) Refer the application to the Secretary of State as major development in the Green Belt, to decide whether to call the application in, and
- b) The conditions set out below, subject to any minor changes to wording being agreed in writing by the Chief Officer for Planning and Regulatory Services, and
- c) A satisfactory legal agreement made under section 106 of the Town and Country Planning Act 1990 (as amended) being completed no later than 30 September 2022, unless in accordance with a new timescale otherwise agreed in writing by the Chief Officer for Planning and Regulatory Services.

Section 106 Agreement

The Section 106 Agreement shall include the following requirements:

- Affordable Housing comprising of 40% affordable housing to be provided on site of which 65% of the affordable properties to be provided as Affordable Rented / Social Rented - 35% of the affordable properties to be provided as Intermediate Housing;

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- Highways Contributions comprising:

£20,000 towards relining and resurfacing works in the vicinity of the Four Elms Village crossroads;

- £1,000 to be used by Edenbridge Town Council/Hever Parish Council to help fund traffic surveys in the village of Four Elms;

- Travel Plan monitoring fee of £948;

- £14,000 towards the provision of 2no. bus stops on the site;

- £40,000 to be used for improvements to the sections of Public Right of Way of SR603 and SR604 adjoining the site and linking to the land;

- Provision of 0.29ha of land for new allotments - each plot to be 6m x 9m together with an associated allotment car park (to be provided and transferred to Town Council subject to them confirming required).
- Open Space to be provided on site (and transferred to a management company for future maintenance) comprising of areas of land for amenity greenspace and areas of land for semi natural greenspace;
- 0.104ha of children's play space to be provided as 6 Local Areas of Play (LAP's) and 1 Local Equipped Area of Play (LEAP) unless otherwise agreed;
- The safeguarding and transfer (if called for during a specified period) of 0.37ha of land for the construction of a new scout hut for Edenbridge Scout Group; and £200,000 towards the construction of the scout hut and ancillary facilities (i.e. car-parking and outdoor facilities) thereon if the land is taken;
- The safeguarding of 5.3ha of land to accommodate a secondary school and associated sports facilities and playing fields and its transfer to an education provider if called for within a specified period of time;
- The creation of a new parking area for 36 spaces, pick-up and drop off area and a step-free access ramp leading to the platform at Edenbridge Town Station either through the direct provision by the developer or the provision of land and utilisation of the financial contribution referred to below;
- £1,000,000 contribution payable to Network Rail to be used for safety improvements to the Little Mowhurst level crossing and infrastructure improvements (including new ticket machines, barriers, signage, any project to provide a new passenger footbridge and (if delivered by Network Rail) the new parking area) at Edenbridge Town Station;

- Provision of land and creation of 6 parking spaces for use by residents of Town Station Cottages.

Planning conditions

1) Application for approval of the reserved matters for the first Phase of the development shall be made to the local planning authority not later than 3 years from the date of this permission. Application for approval of the reserved matters for all other Phases shall be made not later than 5 years from the date of this permission. For the purposes of this permission all references to a "Phase" or "Phase of development" shall be interpreted as being a reference to a Phase as defined on the phasing plan approved or subsequently updated pursuant to condition 4.

In Pursuance of section 92(2) of the Town and Country Planning Act 1990.

2) The development shall be begun not later than whichever is the later of the following dates: - the expiration of 2 years from the date of approval of the last reserved matters application for the first Phase or the expiration of 5 years from the date of this permission.

In Pursuance of section 92(2) of the Town and Country Planning Act 1990.

- 3) Before any development in each Phase is begun plans showing the:
- a) appearance;
 - b) landscaping;
 - c) layout, including any pedestrian access into and within the site , and vehicular access within the site which serves the Phase; and
 - d) Scale.

To accord with Article 5 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 as amended.

4) As part of, or prior to, the submission of the application for reserved matters for the first Phase of development, a phasing plan setting out the boundaries of the proposed phases of the development across the whole site shall be submitted to and approved in writing by the local planning authority. The phasing plan shall include a programme for the layout out of the access roads into the site. Thereafter each reserved matters application for a Phase submitted pursuant to Condition 3 shall be accompanied by an updated phasing plan. The updated phasing plan shall set out any proposed changes from the phasing plan previously approved pursuant to this Condition. The development shall be carried out in accordance with the phasing plan as approved and updated or required by

other conditions of this permission.

To ensure the satisfactory delivery of elements of the proposed development and to accord with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

5) Development shall not begin in any Phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the Flood Risk Assessment compiled by WSP (September 2020, Version 2). The submission shall also demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

Phasing for the drainage scheme shall be submitted and approved, including any needed temporary works, specific provisions per phase or other strategic drainage infrastructure. The drainage scheme shall also demonstrate (with reference to published guidance):- that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters. - appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including and proposed arrangements for future adoption by any public body or statutory undertaker. The drainage scheme shall be implemented in accordance with the approved details.

To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

6) No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate the suitable modelled operation of the drainage system where the system constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework.

7) If, during the course of development of a Phase, contamination not previously identified is found to be present in that Phase, no further works shall be undertaken in the relevant area of that Phase and the contamination shall be reported to the local planning authority as soon as reasonably practicable (but within a maximum of 5 working days from the find). Prior to further works being carried out in the relevant area of that Phase, a further assessment shall be made and appropriate remediation implemented in accordance with a scheme submitted to and approved in writing by the local planning authority.

To ensure that the site is remediated appropriately for its intended use and to accord with the aims and objectives of the National Planning Policy Framework.

8) As part of, or prior to, the first application for reserved matters, a site-wide recreation and open space strategy for the entire site shall be submitted to and agreed in writing by the local planning authority. The strategy should be in broad accordance with the areas of open space identified in the section 8.3.3 of the Design and Access Statement and drawing no. 1590-P1-11 Rev.N. Thereafter subsequent Phases shall proceed in broad accordance with the approved strategy, and each reserved matters application submitted pursuant to Condition 3 shall be accompanied by an updated recreation and open space strategy which sets out any proposed changes from recreation and open space strategy previously approved pursuant to this Condition.

To ensure adequate provision of public open space to meet the needs of future occupiers of the development and to accord with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

9) No development within a Phase shall commence until the local planning authority has approved in writing the details of, and arrangements for, the setting out of on-site public open space as part of that Phase of the development. The on-site public open space shall broadly accord with the site-wide recreation and open space strategy pursuant to condition 8, and shall include the following matters in respect of the Phase:

- a) The delineation and siting of the proposed public open space;
- b) The type and nature of the facilities to be provided within the public open space including, where relevant, children's play provision;
- c) The arrangements to ensure that the public open space is laid out and completed during the course of the development; and
- d) An annual maintenance schedule.

The open space for that Phase shall be completed in accordance with the approved details and arrangements for that Phase.

To ensure adequate provision of public open space to meet the needs of future

occupiers of the development and to accord with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

10) Before any part of any Phase of the development is brought into use, the relevant proposed means of vehicular and pedestrian access hereby approved as part of that Phase shall be laid out, hard surfaced and drained in broad accordance with the approved plans and completed to a constructional specification approved in writing by the local planning authority.

To ensure that a suitable form of access is made available to serve the development in the interests of highway safety and to accord with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

11) No development shall commence for the school playing fields and MUGA, until the following documents have been submitted to and approved in writing by the Local Planning Authority after consultation with Sport England:(i) A detailed assessment of ground conditions (including drainage and topography) of the land proposed for the playing field which identifies constraints which could adversely affect playing field quality; and(ii) Where the results of the assessment to be carried out pursuant to (i) above identify constraints which could adversely affect playing field quality, a detailed scheme to address any such constraints. The scheme shall include a written specification of the proposed soils structure, proposed drainage, cultivation and other operations associated with grass and sports turf establishment and a programme of implementation. The approved scheme shall be carried out in full and in accordance with the approved programme of implementation before first occupation of the educational establishment. The land shall thereafter be maintained in accordance with the scheme and made available for playing field use in accordance with the scheme.

Reason: To ensure that the playing field is prepared to an adequate standard and is fit for purpose and to accord with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

12) No development shall commence for the school playing fields until a schedule of playing field maintenance including a programme for implementation for a minimum period of five years starting from the commencement of use of the development has been submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. Following the commencement of use of the development the approved schedule shall be complied with in full.

To ensure that the playing field is first established as a functional playing field to an adequate standard and is fit for purpose and to accord with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

13) The school playing field/s and pitch/es shall be constructed and laid out in accordance with the condition 12 and with the standards and methodologies set out in the guidance note "Natural Turf for Sport" (Sport England, 2011), and shall be made available for use before first use of the educational establishment of the development hereby permitted.

To ensure the quality of pitches is satisfactory and they are available for use before development and to accord with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

14) Use of the school playing fields, multi-use games area and athletic track shall not commence until a community use agreement prepared in consultation with Sport England has been submitted to and approved in writing by the Local Planning Authority, and a copy of the completed approved agreement has been provided to the Local Planning Authority. The agreement shall apply to playing fields, multi-use games area and athletic track and include details of pricing policy, hours of use, access by non-educational establishment users, management responsibilities and a mechanism for review. The development shall not be used otherwise than in strict compliance with the approved agreement.

Reason: To secure well managed safe community access to the sports facility/facilities, to ensure sufficient benefit to the development of sport and to accord with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

15) The development shall be carried out in accordance with the submitted Flood Risk Assessment (ref 3967-FRA-01, dated September 2020) and the following mitigation measures it details:

As part of the reserved matters details of a completely separate flood storage area to compensate the flood risk from river in the area where the finishing levels of the road, which falls within Flood Zone 3, will be raised above pre-development ground levels.

All Finished floor levels shall be set to whichever is the greater level of the following: a minimum of 300mm above the 1 % AEP (35% increased flow) climate change flood level or 50mm above the 1 % AEP (70% increased flow) climate change flood level.

Details to be provided that demonstrate finished site levels to be engineered in such manner to prevent ponding. Gradients of external areas to be designed to fall away from dwellings such that overland flow routes resulting from exceedance flood events follow the path of least resistance and be channelled away from proposed properties.

These mitigation measures shall be fully implemented prior to occupation of the first residential unit.

To ensure that flood risks from development to the future users of the land and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 168 of the National Planning Policy Framework.

16) Any applications for approval of reserved matters pursuant to condition 2 shall broadly accord with the parameter plans land use [GIP (drawing ref no. 1590

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P1-12 Rev.G)], proposed lighting parameters in the lighting strategy report, Noise and Vibration Assessment dated April 2020, Landscape and Ecological Strategy dated September 2020.

To ensure that the development achieves high quality design and is in accordance with paragraphs 124, 126 and 127 of the National Planning Policy Framework and policies

17) No development of a Phase, shall take place until a detailed 'Landscape, Ecology, Management and Monitoring Plan' (LEMMP) will be submitted to, and approved by, the local planning authority. This will be in accordance with the measures outlined in the Landscape and Ecology Strategy (Corylus Ecology September 2020) and the Biodiversity Net-Gain Report (Corylus Ecology March 2021).

To accord with policy SP11 of the Sevenoaks District Council Core Strategy and paragraph 180 of the National Planning Policy Framework.

18) Notwithstanding the provision of Class A, Part 4 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, or any subsequent legislation, prior to the commencement of each phase of development a plan specifying arrangements for the management of the construction site for that Phase shall be submitted to and approved in writing by the local planning authority. The construction plan for that Phase shall include the following details as appropriate:

- a) full details of the contractor's temporary means of access to the site;
- b) hours of delivery of materials and routing of construction and delivery vehicles to / from site;
- c) location of site management offices and/or sales office;
- d) location of materials storage compounds, loading/unloading areas and areas for construction vehicles to turn within the site;
- e) car parking areas for construction workers, sales staff and customers;
- f) the extent of and surface treatment of all temporary road accesses leading to compound/storage areas
- g) temporary warning and direction signing on the approaches to the site including any temporary traffic measures;
- h) implementation of mitigation measures as detailed in Section 7 in the Air Quality Assessment dated June 2020;
- i) Provision of wheel washing facilities;

The construction plan details as approved shall be implemented before the

development of that phase is begun and shall be kept in place, operated and adhered to at all times until the development of that Phase is completed. In addition, no vehicles involved in the construction of the development of that phase shall enter or leave the site of the development of that Phase except via the temporary means of access within the approved construction plan for that Phase.

To ensure the provision of proper site construction facilities in the interests of highway safety and amenity of the surrounding environment and its occupants and to accord with Policies EN1, EN2, T1 of the Sevenoaks Allocations and Development Management Plan.

19) Prior to first occupation of each dwelling with one or more dedicated vehicle parking spaces, that dwelling shall be provided with access to a fully operational 3 pin socket on a dedicated circuit, capable of providing a "trickle" charge to an electric vehicle. All Electric Vehicle Charging Points shall be provided either within garage space or via outdoor, weatherproof sockets within easy access of the off-road parking areas.

In accord with policy T3 of the Sevenoaks District Council Allocation and Development Management Plan.

20) Prior to first occupation of each dwelling with non-dedicated parking, that dwelling shall be provided with Electric Vehicle Charging Points at a rate of no less than 1 per 10 communal parking spaces. This minimum requirement shall comprise access to a fully operational 3 pin socket capable of providing a "trickle" charge to an electric vehicle. All communal Electric Vehicle Charging Points shall be clearly marked with their purpose.

In accord with policy T3 of the Sevenoaks District Council Allocation and Development Management Plan.

21) All other types of development (other than housing, scout hut and allotments site) at the site shall provide Electric Vehicle charging facilities and shall include parking at the proposed education facility. Where provided, all Electric Vehicle charging facilities shall be fully operational prior to first occupation or use.

In accord with policy T3 of the Sevenoaks District Council Allocation and Development Management Plan.

22) Prior to the commencement of any Phase of residential development, a detailed Travel Plan for that Phase which is in broad accordance with the Framework Residential Travel Plan dated June 2021, and finalises the travel plan measures to be put in place for that Phase shall be submitted to and approved in writing by the local planning authority. The detailed Travel Plan for that Phase shall include reference to Travel Plan measures to be set out within the residents' welcome packs. The detailed Travel Plan for that Phase shall thereafter be carried out and operated as approved.

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To promote sustainable travel options, minimise reliance on the private car and reduce traffic congestion and demand for on street parking in the locality, in the interests of pedestrian and highway safety and to accord with Policy

23) Six months prior to the occupation of the school, a detailed School Travel Plan which is in broad accordance with the School Sensitivity Impact & Zebra Crossing Feasibility Report dated July 2021, and finalises the travel plan measures to be put in place for the school shall be submitted to and approved in writing by the local planning authority. The School Detailed Travel Plan shall thereafter be carried out and operated as approved.

To promote sustainable travel options, minimise reliance on the private car and reduce traffic congestion and demand for on street parking in the locality, in the interests of pedestrian and highway safety and to accord with Policy T1 of the Sevenoaks Allocations and Development Management Plan.

24) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of any necessary archaeological work:

i) a desk top study exploring the archaeological potential of the site; and if necessary

ii) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and if necessary iii) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority.

To ensure that features of archaeological interest are properly examined and recorded and that due regard is had to the preservation in situ of important archaeological remains, in accordance with Policy EN4 of the Sevenoaks Allocations and Development Management Plan.

25) Construction work shall only be carried out between the hours of 0730 and 1800 on Mondays to Fridays, 0730 and 1300 on Saturdays and at no time on Sundays, Bank or Public Holidays, unless specifically agreed otherwise in writing by the local planning authority.

To protect the amenity of the occupants of nearby dwellings and to accord with policy EN1 of the Sevenoaks Allocation and Development Management Plan.

26) No development shall take place over the alignment of Public Footpath SR603 or SR604 until an Order for their permanent diversion has been made and confirmed, and the diverted route has been fully provided and certified, unless otherwise agreed in writing by the local planning authority.

To ensure that public rights of way are properly safeguarded in the public interest in accordance with Policy T1 of the Sevenoaks Allocations and Development Management Plan.

27) Prior to the commencement of a relevant Phase that affects existing Public Right of Way SR603 and SR604, further details of their resurfacing shall be submitted to and agreed in writing by the local planning authority. The development shall accord with the approved details and implemented in full prior to the first occupation of a residential unit of a relevant phase, unless otherwise agreed in writing by the local planning authority.

To ensure that public rights of way are properly safeguarded in the public interest in accordance with Policy T1 of the Sevenoaks Allocations and Development Management Plan.

28) Prior to the commencement of any phase of the development hereby permitted shall implement mitigation measures in accordance with the Arboricultural and Method Statement and Manual for Managing Trees on Development Site.

To ensure that the appearance of the development enhances the character and appearance of the area as supported by Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

29) The applicant shall obtain a Secured by Design accreditation for the residential development hereby permitted, a copy of which must be submitted to, and approved in writing by the Local Planning Authority unless otherwise agreed within three months of the completion of the development hereby permitted.

In the interest of Security, Crime Prevention and Community Safety and in accordance with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

30) The development hereby permitted shall not be used or occupied until the visibility splays shown on the approved 70003967-SK-10 Rev. D have been provided and anything which obstructs visibility at any height greater than 0.6 metres above the surface of the adjoining carriageway has been removed. Thereafter the visibility splays shall be maintained free from obstruction at all times.

In the interest of highway safety as supported by Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

31) Prior to the commencement of each phase of development (or as part of the Reserved Matters application for that phase), further details of the design and the number of the residential dwellings to be constructed in accordance with Part M4(2) of the Building Regulations shall be submitted to approved in writing by the local planning authority. A total of 17 homes across the site shall be built in accordance with the M4 (3) b of Building Regulations.

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In accordance with Policy SP5 of the Core Strategy.

32) The proposed scout hut and educational establishment hereby approved shall achieve a BREEAM minimum rating of 'Very Good' or alternative as agreed in writing by the local planning authority. Evidence shall be provided to the Local Authority in the following format and at the following times: i) Prior to first use of the educational/community element of the development, a final post-construction certificate certifying that the development has achieved a BREEAM minimum rating of 'Very Good' or alternative as agreed, shall be submitted to and approved in writing by the Local Planning Authority. Achievement of BREEAM 'Very Good' or alternative as agreed, must include at least a 10% reduction in the total carbon emissions through the on-site installation and implementation of decentralised, renewable or low-carbon energy sources.

In the interests of environmental sustainability and reducing the risk of climate change as supported in Policy SP2 of the Sevenoaks Core Strategy.

33) Prior to the first use of the educational establishment hereby permitted the off-site highway works as shown on drawing no. 70003967-SK10 Rev.10 (subject to any revisions thereto as may be agreed with the local highway authority through the detailed design process under the relevant highways agreement) shall have been completed in full to the satisfaction of the local planning authority.

In the interest of highway safety as supported by Policies EN1 and T1 of the Sevenoaks Allocations and Development Management Plan.

34) The development shall be constructed to provide on-site modern communication and technology infrastructure, which should include Broadband, high speed internet cabling and digital TV cabling. Details relating to the provision of such infrastructure shall be submitted prior to the commencement of each phase of the development. No residential unit in any phase shall be occupied until the approved infrastructure has been provided in each relevant phase, or in accordance with an alternative timescale agreed by the Local Planning Authority as part of the approved details.

To provide high quality technological infrastructure in accordance with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

35) The development hereby permitted shall be carried out in accordance with the following approved plans: P18099-001D, 7000 3967-SK-25 Rev.A, 7000 3967-SK-10 Rev.D.

For the avoidance of doubt and in the interests of proper planning.

36) Vehicular access arrangements to consist of a primary access onto the B2027 Four Elms Road as shown in principle on Drawing Number 70003967-SK-010 Rev D (subject to such revisions as may be agreed with the local highway authority as part of the detailed design process pursuant to the requisite highways agreement) and to be provided prior to occupation of any development and separate secondary

access via the medical centre access and an emergency access via Forge Croft/Frantfields.

Reason: In the interests of highway safety and access in accordance with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

37) Save where the requisite traffic regulation order has already been sought or obtained through the highways agreement referred at condition 36 above, prior to occupation of the development, the applicant shall submit an application to the local highway authority seeking an extension to the 30mph speed limit along Four Elms Road sufficient to encompass the approved access pursuant to section 1 of the Road Traffic Regulation Act 1984 not Road Traffic Act 1984 (or such other enabling legislation as shall be applicable).

Reason: In the interest of highway safety.

38) In respect of the main estate / spine road serving the station car park any application to the local highway authority for the adoption of said road pursuant to s38 of the highways act 1990 shall include details of any measures or parking restrictions proposed by the applicant to restrict commuter parking on said roads in the event that the new station car park is brought into use.

Reason: In the interests of highway safety and access in accordance with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

39) Prior to commencement of development of the school site a Transport Assessment review shall be undertaken and completed. The completed review shall be submitted to and approved by the local planning authority and shall be implemented in accordance with the approved details prior to the first use of the school hereby permitted.

Reason: To assess any further impact upon the highway network and in the interests of highway safety, in accordance with Policy EN1 of the Sevenoaks Allocations and Development Management Plan

40) Prior to occupation of the school site:

i) Additional space to be provided for the bus/coach drop off/pick area and a separate/segregated student drop off/pick up area to be provided prior to the occupation of the school.

ii) Details of arrangements of a delivery management plan which includes details delivery vehicles to park and manoeuvre clear of the highway shall be submitted to and approved by in writing by local planning authority.

The development shall accord with the approved details.

Reason: In the interests of highway safety and access in accordance with Policy

EN1 of the Sevenoaks Allocations and Development Management Plan.

Informatives

- 1) Guidance on preparing Community Use Agreements is available from Sport England. <http://www.sportengland.org/planningapplications/> For artificial grass pitches it is recommended that you seek guidance from the Football Association/England Hockey/Rugby Football Union on pitch construction when determining the community use hours the artificial pitch can accommodate
- 2) The proposed development has been assessed and it is the Council's view that the CIL is payable. Full details will be set out in the CIL Liability Notice which will be issued with this decision or as soon as possible after the decision.
- 3) Please be aware that this development is also the subject of a Legal Agreement under Section 106 of the Town and Country Planning Act 1990.
- 4) New build developments or converted properties may require street naming and property numbering. You are advised, prior to commencement, to contact the Council's Street Naming and Numbering team on 01732 227328 or visit www.sevenoaks.gov.uk for further details.
- 5) Should the development be approved by the Planning Authority, it is the responsibility of the applicant to ensure, before the development is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.
- 6) The applicant should note that under the terms of The Conservation of Habitats and Species Regulations 2010, Wildlife and Countryside Act 1981 and Countryside and Rights of Way Act 2000, it is an offence to disturb nesting birds or roosting bats which are also European Protected Species.

You should note that the work hereby granted consent does not override the statutory protection afforded to these and other protected species and you are advised to seek expert advice if you suspect that the demolition would disturb any protected species. Please note that a European Protected Species Licence will be required to allow the proposed development to proceed lawfully. Further details can be found at: <https://www.gov.uk/environmental-management/wildlife-habitat-conservation>

- 7) The developer is reminded that it is an offence to allow materials to be carried from the site and deposited on or damage the highway from uncleaned wheels or badly loaded vehicles. The Highway Authority will seek, wherever possible, to recover any expenses incurred in clearing, cleaning or repairing highway surfaces and prosecutes persistent offenders. (Highways Act 1980 Sections 131, 148, 149).

RECOMMENDATION B: If Kent County Council does not sign up the trilateral

Section 106 Agreement, then bilateral agreement shall be completed by the 30 September 2022 with the same heads of terms and conditions as detailed above in Recommendation B and the subject to the inclusion of an additional planning condition 41 as detailed below:

41. No development shall take place with the area outlined green on the plan referred to as Plan 5, titled P1-18 Rev A unless the land is bound into the Section 106 Agreement, either through a supplementary or confirmatory deed that can be appended to the Section 106 Agreement.

Reason: To ensure that the site is development in a comprehensive manner, the secondary access to the site is provided and the full level of Section 106 contributions and provisions are secured.

National Planning Policy Framework

In dealing with this application we have implemented the requirements in the National Planning Policy Framework to work with the applicant/agent in a positive, proactive and creative way by offering a pre-application advice service; as appropriate updating applicants/agents of any issues that may arise in the processing of their application and where possible and if applicable suggesting solutions to secure a successful outcome. We have considered the application in light of our statutory policies in our development plan as set out in the officer's report.

Background and reason for this addendum report

- 1 On 30 September 2021, the Development Control Committee resolved to grant planning permission for the above development at Four Elms Road in Edenbridge (officer's report attached).
- 2 Since that resolution, work has been undertaken to negotiate the detail of the Section 106 Legal Agreement, based on the agreed Heads of Terms (see Minutes of the meeting attached). The detailed negotiation process has taken longer than anticipated.
- 3 During the course of the negotiations, KCC's solicitor wrote to the Council on the 2 February 2022 raising concerns that financial obligations sought by KCC had not been included in the committee heads of terms or draft S106 agreement.
- 4 We have engaged with KCC on this matter, both at an individual application level and at a more strategic level. Those negotiations and discussions have not resulted in agreement being reached between the two authorities. KCC retain their objection to the proposal on the grounds that failing to secure all of the planning obligations sought by KCC, the adverse impacts of the

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development will not be mitigated, and that the necessary infrastructure to support the development will not be delivered.

- 5 Members will recall that this application was reported back to the Development Control Committee on the 21 March 2022 with the officer's response (officer's report attached). However on the 17 March 2022, KCC sent a further letter changing and increasing their request for funding and continuing to challenge the Council's approach to not including their funding requests within a Section 106 Agreement. KCC also submitted a counsel opinion from David Forsdick QC in support of their view of the situation.
- 6 In light of the additional information received from KCC late in the day, the DC Members deferred the application for further consideration at a future meeting. This approach was taken to enable the Council to seek formal legal advice; to allow the applicant time to do the same if they wish; and to report the application back to Development Control Committee once the advice has been considered and taken into account.

The consideration of this report

- 7 In light of the issues raised by KCC it is considered to be in the interests of transparency and good governance for this application to be referred back to update Members, so that they are fully appraised of the matter by KCC thereby ensuring that all material planning considerations have been taken into account in determining the application. The application is to be considered afresh, as a whole.
- 8 This report is an addendum with the update on the key issues and attached is a copy of the original officer's report, the late observations reported to committee and a copy of the minutes, copy of the March 2022 officers report to committee, the late observations to committee and a copy of the minutes of that meeting. The report also provides the summary planning balance of this case.
- 9 Summary of new material considerations since the original committee resolution in September 2021:
 - Referral to Secretary of State
 - Housing delivery test
 - Broke Hill Decision and implications
 - KCC Objection to the Section 106 & CIL arrangements

Referral to Secretary of State

- 10 Following the committee resolution to grant planning permission subject to the planning conditions and completion of a Section 106 Legal Agreement,

the planning application was referred to the Secretary of State as a major departure from the development plan.

- 11 The Secretary of State for the Department for Levelling Up, Housing and Communities responded on the 7 October 2021 and confirmed that the Secretary of State decided not to call in this application. The Secretary of State was content that the application should be determined by the local planning authority.
- 12 Given that the application is being considered afresh, the application will need to be referred back to the Secretary of State.

Housing delivery test

- 13 In January 2022, the Government released new data on the housing supply, as part of the Housing Delivery Test. The current situation is as follows:
 - The latest Housing Delivery Test results (2021) show that 62% of the overall housing need has been delivered over the previous 3 years, and therefore a 20% buffer applies to the 5 year supply calculation.
 - We do not have a 5 year supply (we have 2.9 years as at September 2021). This will be reviewed after April, to consider the latest monitoring data.
 - Given the Housing Delivery Test result falls under 62%, and we cannot demonstrate a 5 year supply, both of these things independently mean that there remains a presumption in favour of development subject to para 11(d) of the NPPF.
- 14 The consequences of this, do not change our assessment from September 2021, given that we remain a presumption authority under the Housing Delivery Test, albeit our delivery in the past three years, in part to Covid has been lower than expected.

Broke Hill decision and implications

- 15 The planning appeal at Broke Hill was for 800 homes, 180 extra care units, a primary school, community centre, business units and sports facilities was dismissed by the Planning Inspector on the 31 January 2022. The Planning Inspector whilst accepting that there was a significant need for the housing, found that the case of very special circumstances presented, which included extra care housing, affordable housing units, sports provision, school with special needs unit was not sufficient to outweigh the significant harm to the green belt. In particular, he found that there would be substantial harm to the openness of this strongly performing green belt site, both in visual and spatial terms. It would also harm to the landscape character and appearance of the local area, both within the site and surrounding the site. Plus it was found that the sites location lacked the necessary sustainability

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requirements, both in public transport and proximity to a higher tier settlement. Therefore the majority of the trips carried out by private motor vehicles. No challenge to the Inspector's decision was lodged.

- 16 Whilst both sites lie within the green belt, the Four Elms Road site is immediately adjacent to a higher tier settlement, within a sustainable location and close to local services and facilities. The Four Elms Road site is also a poorly performing green belt site and actually provides much needed and identified infrastructure for Edenbridge, such the provision land for the secondary school and improved accessibility to the Edenbridge Town train station. Therefore they are not comparable in terms of the harm to the green belt nor in terms of the benefits that arise as cases of very special circumstances.
- 17 A tri-lateral Section 106 Agreement was signed with KCC, Quinn Estates and ourselves for the onsite infrastructure, including a primary school, sports provision, extra home care, bus service, car clubs, a contribution to improvements to the Knockholt station and travel plans as they were directly related to the development and reasonable, therefore complied with section 122 of the CIL Regulations. The highway works were subject to planning conditions and Section 278 agreements. In addition CIL was chargeable on this development, which would have generated significant CIL contributions from the development.
- 18 Separate to this tri-lateral agreement, Quinn Estates & KCC signed a bi-lateral agreement, that Quinn's would top up or cover the KCC off site development contributions, if they are unsuccessful in bidding for such funds via the Council's CIL Governance Board and/or did not feature on the Annual Infrastructure Funding Statement. We as a Council did not sign up to this agreement.
- 19 The Planning Inspector made no assessment as to whether or not the KCC request was reasonable, or whether the bilateral agreement was acceptable. Nor did he comment on whether it complied with the section 122 of the CIL Regulations. Therefore we do not consider that the Broke Hill case holds significant weight in KCC's case, as ultimately no decision was made and therefore no conclusions can be drawn.
- 20 However KCC hold great weight into the Broke Hill case, but in light of the above circumstances, it is extremely difficult to see (i) how that decision is relevant to the Council's decision in this case; and (ii) even if it was relevant that it would be at all persuasive.
- 21 KCC relies on it not for its content but for the fact that the Council did not object, at the Inquiry, to the developer voluntarily contributing to education under a Section 106 agreement and through the CIL regime. It is of absolutely no relevance to the Council's treatment of the issue in this case. In any event, the developer contribution to education was proposed through a Section 106 bi-lateral agreement to which the Council was not a

party and no decision as the acceptability was reached by the decision maker, i.e., the Planning Inspector in this case.

- 22 Finally it should also be noted that the applicant does not consider scenario to be necessary, fair or reasonable and is not willing to enter into such a separate agreement with KCC.

KCC Objection to the Section 106 & CIL arrangements

23 Legal Opinions

- 24 Since the planning application was deferred from DC Committee on the 21 March 2022, the applicant and KCC have both provided differing counsel opinions to support their approach as to whether or not KCC's additional requests should be included within a Section 106 Agreement.

- 25 KCC counsel David Forsdick QC has provided three legal opinions, two which of are supplementary in response to Gregory Jones QC opinions. The applicant's counsel Gregory Jones QC has provided two legal opinions of this matter, both in response to David Forsdick QC opinions.

- 26 The Council has sought its own opinion from Richard Ground QC, who has considered all the matters and opinions. Whilst KCC and the applicant have sought to alter the stance of the Council based on the advice they received, Queen's Counsel's opinion received by the Council fully supports the long-held position set out in this and preceding reports.

27 KCC's principle objection

- 28 KCC's objection to Council's position has usefully summarised in David Forsdick QC opinion, which states:

"SDC therefore has a simple choice:

(1) to require a s.106 obligation to cover secondary school (and other contributions) in the event CIL monies are not made available for those elements; or

(2) to confirm that CIL will reserved for those matters up to the sums claimed in the education contribution assessment.

It has no other lawful option."

- 29 The basis of their position relies on the change in the CIL Regulations in 2019, which removed the Regulation 123 list and the introduction of the guidance note Securing Developer Contributions for Education by the Department for Education in 2019.

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30 Policy Background

31 The starting point is the development plan, where policy SP9 of the Sevenoaks Core Strategy 2011 states:

“Where new development creates a requirement for new or improved physical, social and green infrastructure beyond existing provision, developers will be expected to provide, or contribute to, the additional requirement.

The Council will support the development of infrastructure facilities required to resolve existing deficiencies or to support the scale and distribution of development proposed in the Core Strategy.”

32 This policy does not suggest or make it mandatory to require more than CIL for education contributions, nor gives greater weight to be given to education. In fact it is a general in its terms of infrastructure and does not actually single out education as priority.

33 From August 2014, the Council become a CIL charging authority and between 2014 and 2019 was prohibited from taking into account obligations seeking Section 106 agreements which appeared on the Council’s Regulation 123 list.

34 The Council’s charging schedule from 2014 was very clear that education infrastructure would be funded through CIL receipts, as education amongst a number of infrastructure appeared on the Regulation 123 list. The same applies to the other contributions that KCC is also now seeking.

35 The Council’s CIL rates was calculated on the basis that all the infrastructure provisions listed in the Regulation 123 would be covered by CIL receipts generated from development.

36 When the CIL Regulations were changed in 2019 and the Regulation 123 list was removed, however the Council did not changed its CIL charging rate. Therefore it entirely appropriate and reasonable to maintain that CIL receipts from the development will cover the infrastructure from those previously on the Regulation 123 list, as the CIL rate was developed to cover the costs of such infrastructure.

37 The Council fully accepts that Regulation 122 allows for Section 106 contributions to be sought in addition to CIL receipts where they meet all the criteria. This application provides such a scenario with a Section 106 Agreement with contributions and works on site, whilst other infrastructure, such as off site can be covered by CIL contributions that would generated from the scheme.

38 The reality is that the CIL rates are the same, as they were for that period when they were judged to be sufficient on their own. The local policy on

infrastructure does not justify the position that the same infrastructure has to be covered by CIL and a section 106. In fact, the same policy applied at a time when a section 106 was expressly prohibited for matters covered previously by Regulation 123.

- 39 The Council's policy framework does not specifically require a Section 106 for education, nor does it require the Council to guarantee CIL receipts to a sufficient projects or education. This position has remained unchanged since 2014.

40 National Planning Policy Framework

- 41 The NPPF in paragraph 95 indicates that it is desirable to widen choice on education, but does not state that CIL would be insufficient. Interestingly the 2018 version of the NPPF had almost identical wording and this was prior to the changes to the CIL regulations 2019, when it was only way of achieving contributions was through CIL under the Regulation 123 list. Therefore it was apparent Government thought that the policy could be met by CIL receipts alone.

- 42 The NPPF does not require a Section 106 for education nor does it require the Council to guarantee CIL receipts to a sufficient projects or education.

43 National Planning Practice Guidance (NPPG)

- 44 The guidance in paragraph 167 on CIL indicates that some site specific impacts maybe necessary to make a planning application acceptable. Some of these can be covered by the levy but others may not. The current Section 106 includes some very local and specific contributions to deal site specific impacts, none of which featured on the Council's former Regulation 123.

- 45 Further guidance is set out in paragraph 169 on the how Section 106 obligations and CIL operate together. It does not state that a local planning authority has to use CIL and section 106 for general provision of school places. It is more the case of how it could work, in where a school is identified within a local plan to be funded by section 106 contributions. This scenario does not apply here, as there is no local plan allocation for this site.

- 46 In relation to how a local authorities should spend their CIL receipts, paragraph 144 of the NPPG states:

“The levy can be used to fund a wide range of infrastructure, including transport, flood defences, schools, hospitals, and other health and social care facilities (for further details, see section 216(2) of the Planning Act 2008, and regulation 59, as amended by the 2012 and 2013 Regulations). This definition allows the levy to be used to fund a very broad range of facilities such as play areas, open spaces, parks and green spaces, cultural and sports facilities, healthcare facilities, academies and free schools,

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district heating schemes and police stations and other community safety facilities. This flexibility gives local areas the opportunity to choose what infrastructure they need to deliver their relevant plan (the Development Plan and the London Plan in London). Local authorities must spend the levy on infrastructure needed to support the development of their area, and they will decide what infrastructure is needed”.

- 47 The guidance is very clear it is up to the local authority to decide how it spends its CIL receipts and for the local authorities to decide what infrastructure is needed.
- 48 Paragraph 169 continues as it is for “*Authorities can choose to use funding from different routes to fund the same infrastructure. Authorities should set out in infrastructure funding statements which infrastructure they expect to fund through the levy and through planning obligations*”. So it is through the infrastructure funding statements that the Local Authority will set out where planning obligations will be required. There is no planning obligation listed within the infrastructure funding statement for this site and therefore any funding for this site would be covered by CIL.
- 49 Therefore the NPPG does not specifically require a Section 106 for education provision nor does it require the Council to guarantee CIL contributions specifically for education.
- 50 Securing Developer Contributions for Education (2019) by Department for Education (DFE)
- 51 KCC have placed great reliance upon this document as to their position. However it is not an adopted development plan policy, national policy or national guidance. It is simply a document cross referred to in the NPPG. It is a material planning consideration but holds little weight, when considered against the National and Local policies and guidance.
- 52 Within the opening paragraph 1 of the guide it states that “*CIL can be used to fund the provision, improvement, replacement, operation or maintenance of a wide range of infrastructure, including education. Alternatively, a Section 106 planning obligation secures a contribution directly payable to the local authority for education (or direct provision of a school ‘in kind’)...*”. It clearly states that CIL can be used or alternatively Section 106s. It gives the decision maker a clear choice. It does not state that only Section 106s should be used to secure funding for education.
- 53 Paragraph 2 continues along this theme as to there being a choice between CIL or Section 106 for education “*We advise you to work with local planning authorities in devising their approaches to securing developer contributions, to consider the most appropriate mechanism (Section 106 planning obligations and/or CIL) to secure contributions from developers towards education alongside other infrastructure funding priorities*”

- 54 Paragraph 4 suggests that Section 106's maybe more effective in two tier areas, but the decision is down to the local planning authority, not the education authority "*...In two-tier areas where education and planning responsibilities are not held within the same local authority, planning obligations may be the most effective mechanism for securing developer contributions for education, subject to the tests outlined in paragraph 1.*"
- 55 The DFE guidance does not make it mandatory for education to be secured by Section 106 obligations, as it is quite clear that funding or provision education can also come from CIL. It is also not compulsory to have both CIL and Section 106 for education.
- 56 Summary of planning policy and guidance
- 57 None of the national or local planning policy or national guidance, as well as DFE guide when properly interpreted provide a policy that means that it is compulsory for the Council to require a section 106 on top of the CIL contributions for education or indeed any other contribution sought by KCC. Nor do they support reserving CIL for any particular purpose.
- 58 The Council can consider that relying on the CIL contributions for education and the other financial contributions KCC has sought is sufficient and take a perfectly lawful decision, as it is a matter of planning judgment. It is not for KCC to decide how the balance of CIL versus Section 106 obligations should go, as they are not the planning decision maker. The Council is not be making a decision contrary to national policies or guidance, as nothing within these documents dictate that education or the other contributions by KCC can only be secured section 106 obligations, or that funds from CIL should be specifically reserved for education of other contributions that KCC are sought.

Likely CIL contributions and bid process

- 59 The appellant's counsel Gregory Jones QC has provided a breakdown of the likely CIL receipts based to the house types of the 340 dwellings set out in the supporting documents with the planning application. The development will generate CIL contributions of £2,206,493.50.
- 60 The calculations are based on actual house types would also reduce the extent of KCC contributions, as KCC formulas are based on cost per dwelling, which excludes the smallest units, i.e., one bedroom as a contribution towards education.
- 61 The updated figures for KCC requested contributions would be £1,524,865.67 as detailed in Gregory Jones QC opinion, which is not disputed by David Forsdick QC. However David Forsdick QC does rightly point out only 75% of the £2,206,493.50 would go the District Council, as 25% goes directly to the Town and Parish Council's. So even with the 25% taken off that would go to the Edenbridge Town, the likely CIL receipts

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would still leave £1,765,194.80. Therefore the CIL contributions from the development would more than cover KCC's requested contributions.

- 62 It should also be remembered that when the Council's CIL rate was formulated it included infrastructure as education, health & social care facilities, community facilities. The Council's rate did not alter in 2019 following changes to the CIL regulations and therefore it is entirely reasonable for education contributions to be covered by CIL.
- 63 The NPPG as discussed is quite clear that CIL receipts can be spent on education and health and social care facilities, as well as wide range of facilities. Therefore it would be clearly reasonable to expect the CIL receipts generated from this site to be used for education.
- 64 In the event that this planning application is approved, when the next annual version of the Infrastructure Funding Statement (IFS) is updated, it would include KCC requested contributions including education. As each year when reviewing the IFS each year, we look consider any changes to the Infrastructure Delivery Plan and any changes in circumstances, such as the grant of any major development sites, not previously envisaged, before setting the priorities for CIL for the next year.
- 65 If specific infrastructure, such as KCC's requested contributions are laid out as a priority in the IFS, then this would provide significant influence the CIL Spending Board, which is a Board of elected members that decides where CIL money is spent.
- 66 KCC are fully entitled to put in bids for funding of specific projects via the CIL Governance Board, as and when the need arises, which can include those covered in their request.
- 67 Finally we have working with KCC over the past six months to assist and potentially streamline the CIL bid process for future submissions for CIL funding for future projects.

Test for a Section 106 obligation

- 68 While the CIL Regulations in 2019 removed Regulation 123 list, Regulation 122 allows the possibility of infrastructure being covered by both CIL and S106, to be lawful and policy compliant. Regulation 122 states that

"A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is -

(a) necessary to make the development acceptable in planning terms;

(b) directly related to the development; and

(c) fairly and reasonably related in scale and kind to the development."

69 The existing draft Section 106 agreement currently seeks to secure the following infrastructure or contributions as they are all considered to be necessary, directly related, fair and reasonable and comply with Regulation 122 as detailed below:

- Affordable Housing comprising of 40% affordable housing to be provided on site of which 65% of the affordable properties to be provided as Affordable Rented / Social Rented - 35% of the affordable properties to be provided as Intermediate Housing

Affordable housing is not covered by CIL and meets policy requirement SP3 of the Sevenoaks Core Strategy, is on site and is fair and reasonable in meeting policy requirements.

- Highways Contributions comprising:
 - £20,000 towards relining and resurfacing works in the vicinity of the Four Elms Village crossroads;
 - £1,000 to be used by Edenbridge Town Council/Hever Parish Council to help fund traffic surveys in the village of Four Elms;
 - Travel Plan monitoring fee of £948;
 - £14,000 towards the provision of 2no. bus stops on the site;
 - £40,000 to be used for improvements to the sections of Public Right of Way of SR603 and SR604 adjoining the site and linking to the land;

In order to deal with the direct highway impacts of the development and in accessibility of the site. Compliance with policy EN1 and T1 of the ADMP. Extent of contributions are fair and reasonable to the impact of the development.

- Provision of 0.29ha of land for new allotments - each plot to be 6m x 9m together with an associated allotment car park (to be provided and transferred to Town Council subject to them confirming required).

On site provision of allotments to comply with policies SP9 & SP10 of the Sevenoaks Core Strategy and G11 of the ADMP. Extent of contributions and works are fair and reasonable in meeting policy requirements.

- Open Space to be provided on site (and transferred to a management company for future maintenance) comprising of areas of land for amenity greenspace and areas of land for semi natural greenspace

On site provision of open space to comply with policies SP9 & SP10 of

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the Sevenoaks Core Strategy and GI1 of the ADMP. Extent of contributions and works are fair and reasonable in meeting policy requirements.

- 0.104ha of children's play space to be provided as 6 Local Areas of Play (LAP's) and 1 Local Equipped Area of Play (LEAP) unless otherwise agreed;

On site provision of children's play space to comply with policies SP9 & SP10 of the Sevenoaks Core Strategy and GI1 of the ADMP. Extent of contributions and works are fair and reasonable in meeting policy requirements.

- The safeguarding and transfer (if called for during a specified period) of 0.37ha of land for the construction of a new scout hut for Edenbridge Scout Group; and £200,000 towards the construction of the scout hut and ancillary facilities (i.e. car-parking and outdoor facilities) thereon if the land is taken

On site provision of allotments to comply with policies SP9 of the Sevenoaks Core Strategy. Extent of contributions and works are fair and reasonable in meeting policy requirements.

- The safeguarding of 5.3ha of land to accommodate a secondary school and associated sports facilities and playing fields and its transfer to an education provider if called for within a specified period of time.

On site provision safeguarding of land for a secondary to comply with policies SP9 of the Sevenoaks Core Strategy. Extent of benefit in kind, rather than contribution and provision is fair and reasonable in meeting policy requirements. A more detailed discussion on this provision will be discussed below.

- The creation of a new parking area for 36 spaces, pick-up and drop off area and a step-free access ramp leading to the platform at Edenbridge Town Station either through the direct provision by the developer or the provision of land and utilisation of the financial contribution referred to below

On site provision of car parking on the northern side of the adjacent Edenbridge Town station, in order to improve accessibility to the station and change modal swift to reduce car journeys. Compliance with policy EN1 and T1 of the ADMP. Extent of contributions and works are fair and reasonable in meeting policy requirements.

- £1,000,000 contribution payable to Network Rail to be used for safety improvements to the Little Mowhurst level crossing and infrastructure improvements (including new ticket machines, barriers, signage, any project to provide a new passenger footbridge and (if delivered by

Network Rail) the new parking area) at Edenbridge Town Station

Direct contribution to adjacent Edenbridge Town station, in order to improve accessibility to the station from the site to assist and change modal swift to reduce car journeys. Compliance with policies SP9 of the Sevenoaks Core Strategy, EN1 and T1 of the ADMP. Extent of contributions and works are fair and reasonable in meeting policy requirements.

- Provision of land and creation of 12 parking spaces for use by residents of Town Station Cottages

Provision of car parking spaces to meet the requirements of Town Station Cottages. Compliance with policies EN1 and T2 of the ADMP. Extent of contributions and works are fair and reasonable in meeting policy requirements.

- 70 Therefore the draft Section 106 seeks to provide significant infrastructure which is necessary, directly related, fair and reasonable that are fully justified. This is on top the significant CIL contributions that will be generated from the site.
- 71 The following are KCC requested contributions to be included within Section 106 agreement, which have been assessed under Regulation 122 of the CIL Regulations
- 72 Secondary Education contribution - The request is for a contribution towards build costs for a secondary school site, on the site or towards a new site school elsewhere with Sevenoaks District. There is no specific project or firm commitment that the contribution will serve the needs of the development within the local area as a result of the development. Therefore it is not certainty of being directly or locally related to the application site.
- 73 It would be unreasonable for the developer to have to pay for Section 106 towards build costs, when such education costs have already been included the formula for SDC CIL rate and therefore it would not be fair. In terms of being necessary, there is no adopted local plan policy requiring the provision of a school on site. Therefore the provision of education to meet the needs of the development on site is potentially considered necessary, however, there is uncertainty as to whether the provision will be directly related to the site, given that there is no certainty that the contribution would only be spent at this site. Therefore, the request is only partially necessary and not considered to be reasonable, fair or directly related to the development and therefore does not comply with Regulation 122.
- 74 It should also be remembered that the applicant is safeguarding 5.3 hectares of land for KCC should they wish to pursue building a school on this site up until 2040, which will be considered later in the report, which is a significant benefit in kind.

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- 75 The acceptability of this planning application does not rest on the provision education build costs, which can be covered by the CIL contributions. Land is being safeguarded for a school, which holds significant weight, but is only just one of the number of very special circumstances that led to the officers to recommend approval.
- 76 Community learning - This request is not directly related to the development site or even Edenbridge, but a general contribution towards additional resources and classes for the new learners within Sevenoaks District. There is no specific project or commitment that the contribution will be spent on, nor would it clearly serve the direct needs of the development within the local area. It would be unreasonable for the developer to have to pay for Section 106 towards community infrastructure, when such community costs have already been included the formula for SDC CIL rate and therefore it would not be fair. The contribution is not required or necessary to make the development acceptable, as the cost would be covered by CIL. Therefore I consider that this request is not necessary, reasonable, fair or directly related to the development and therefore does not comply with Regulation 122.
- 77 Youth services - This request is not for a directly related to the development site or Edenbridge, but a general contribution towards youth services within Sevenoaks District. There is no specific project or commitment that the contribution will be spent on to serve the needs of the development within the local area. It would be unreasonable for the developer to have to pay for Section 106 towards youth community infrastructure, when such youth community costs have already been included the formula for SDC CIL rate and therefore it would not be fair. The contribution is not required or necessary to make the development acceptable, as the cost would be covered by CIL. Therefore I consider that this request is not reasonable, fair or directly related to the development and therefore does not comply with Regulation 122.
- 78 Libraries - This is a more directed provision of additional stock, services and resources at Edenbridge Library. Therefore such provision could be classed as a directly related to the development. However it would be unreasonable for the developer to have to pay for Section 106 towards library provision, when such library provision have already been included the formula for SDC CIL rate and therefore it would not be fair. It would not be necessary for such a contribution in order to make the development acceptable, as the cost would be covered by CIL. The contribution is not required or necessary to make the development acceptable, nor fair or reasonable and does not comply with Regulation 122.
- 79 Social care - This request is not for a directly related to the development site or Edenbridge, but a general contribution towards specialist care accommodation within Sevenoaks District. There is no specific project or commitment that the contribution will serve the needs of the development within the local area. It would be unreasonable to the developer to have to pay for Section 106 towards social care, when such social care costs have already been included the formula for SDC CIL rate and therefore it would

not be fair. The contribution is not required or necessary to make the development acceptable, as the cost would be covered by CIL. Therefore I consider that the request is not necessary, reasonable, fair or directly related to the development and therefore does not comply with Regulation 122.

- 80 Waste - This relates to directed provision of Sevenoaks Waste Transfer Station and HWRC extension at Dunbrik. Therefore such provision could be classed as a reasonable request. However the contribution is not required or necessary to make the development acceptable, nor is it directly related to the site. Such a contribution can be sought by a CIL bid, from the sizeable CIL receipts that will be generated from the development. Therefore this request does not comply with Regulation 122.
- 81 Special Educational Needs - This is a new request from KCC, not originally requested when the application was submitted, but only in March 2022, when the application was being reported back to DC Committee on the 21 March 2022. KCC have requested almost £210K towards, Milestone Academy Special School Expansion in New Ash Green. Whilst it is necessary for special education needs to be catered as a result of the increase in pupil numbers, as has been detailed above under education section, the SDC CIL rate was calculated on the basis it would be cover educational costs. It would not be fair or reasonable to include a separate obligation. In terms of being directly related, the Milestone Academy Special School is at the opposite end of the district, almost 25 miles as a car journey, whilst there are a number of far closer KCC special schools over various district borders within Kent, where children could well attend instead. This scheme is not directly related to the development and it would not be necessary for such a contribution in order to make the development acceptable, as the cost would be covered by CIL. Therefore I consider that this request is not necessary, reasonable, fair or directly related to the development and therefore does not comply with Regulation 122.

Provision safeguarded land for Education at nil cost

- 82 The appellant's counsel Gregory Jones QC has reference made to KCC's developer costs for buying land for schools as being £1 million per acre, as detailed at the Broke Hill & Fort Halstead sites. The applicant is safeguarding 12.8 acres (5.3 hectares) land for education for KCC, should KCC decide to build out of the secondary school at this site up to 2040. Therefore the value of the land being safeguarded for KCC equates £12.8 million using KCC's equation. KCC will receive this land at nil costs. Therefore this is a notable benefit in kind that is included within the Section 106.
- 83 However KCC through their counsel David Forsdick QC do not consider that the value of the safeguarded land is worth £12.8 million, but should be only be valued as the cost of agricultural land, as it being gifted to them and therefore has a different value.

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- 84 Regardless of the actual value of the safeguarded land, disputed between the applicant and KCC, it is entirely reasonable consideration for the Council to give notable weight to the benefit of this safeguarded land gift at nil costs. Particularly in the circumstances where it is difficult to know how much KCC would have to pay if they had to purchase land elsewhere.
- 85 It should be noted that this scheme will deliver land for education via a Section 106 obligation and produce CIL contributions that could be called upon through a CIL bid for school build costs when such a project emerges.

Conclusion KCC Objection

- 86 The KCC objection to the scheme is that they want to the CIL receipts from the site to be reserved for the education and other contributions have they sought. In the event that this is not guaranteed, then they want their contributions secured by a Section 106 obligation. KCC contend that anything else is unlawful.
- 87 The Council can rely on the CIL contributions without expressly changing the normal way that CIL works and allocates the money for education provision and other contributions sought is sufficient to make a perfectly lawful decision. That is a matter of planning judgment for the decision maker. It is for SDC to reach this planning judgement, not KCC.
- 88 Our planning judgement is that none of KCC requested contributions fully meet the requirements for a planning obligation as set out under Section 122 of the CIL Regulations, and actually most fail to meet any of the test, particularly when the Council has had regard to the CIL contributions.
- 89 It should be also be bear in mind that this application includes a Section 106 Agreement, which includes 14 items of infrastructure, contributions, provision and land safeguarded for a secondary school site, as well significant CIL contributions in the region of £2.2 million. The development provides a mix of planning obligations and CIL contributions towards infrastructure provision. Such a combined provision is considered to be meet the infrastructure requirements to address the impact of the development.
- 90 In addition, there is no legal requirement, or even planning policy or guidance that states that CIL contributions have to be reserved to specific projects at the determination stage of a planning application. The NPPG is quite clear the local planning authorities should have the flexibility to decide how they spend their CIL receipts.

Amended recommendation in event of KCC not signing the Section 106

- 91 Whilst KCC have objected to the scheme not including their requested contributions, KCC actually own part of the application site and will be party to the Section 106 Legal Agreement as a land owner. The applicant

and KCC have a collaboration agreement for both of them to work together to secure the development of the application site. KCC will benefit from the development of this site, through a capital receipt through the sale of their land in due course.

- 92 To date, KCC have not signed the draft Section 106 Agreement, which includes the provision such as land safeguarded for a secondary school for an education provider, which maybe KCC or an alternative education provider as nominated by KCC.
- 93 Recommendation A is made that the basis that KCC sign the Section 106 Legal Agreement as planned. However if KCC maintain their objection and are unwillingly to sign the Section 106 Legal Agreement as a landowner, then a fall-back position has been developed as follows:
- a. The KCC land is excluded from the land bound by the Section 106 Agreement at the point of issue of the permission.
 - b. Addition of a negatively worded condition to the planning permission providing that no development on that land can take place unless or until it has been bound into the s106 Agreement through the owner of said land (likely to be the developer who acquires the site) entering into a form of supplementary/confirmatory deed that can be appended to the s106 Agreement.
- 94 This rearrangement is set out in Recommendation B, on the basis that KCC are unwilling to sign the main Section 106 Legal Agreement.
- 95 This approach has been used before on sites with complex land ownership positions, in order to assemble a site, but there is a need to obtain the planning permission first in order to underpin say a CPO.
- 96 This approach is not contrary to the NPPG because it involves the use of a negative condition and the content of the Section 106 agreement is clear for/known by all parties, i.e., the applicant who is supportive of this position.
- 97 The draft planning conditions proposed for the permission allow for phased development, the land in question arguably forms (or can form) a “phase” of the development in its own right.
- 98 KCC’s land holding as detailed on plan 5, which forms part of the application drawings detailing land ownership, includes the secondary access into the site, a part of the housing site and open space.
- 99 The Council has sought counsel opinion from Jonathan Welch on this matter who has concluded that “*it would not appear to be unlawful*” to not include the KCC as landowner from the Section 106, on the basis of the imposition of the Grampian condition requiring this parcel of land to be bound into the Section 106 Agreement.

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Planning Balance

- 100 In accordance with section 38(6) of the 2004 Act, this application has to be determined in accordance with the development plan, unless material considerations (which include the NPPF), indicate otherwise.
- 101 There is no dispute that the application proposal would be inappropriate development in the Green Belt, nor is there any dispute that the proposal would have an adverse impact on the openness of the Green Belt. Therefore the tilted balance of paragraph 11(d) of the NPPF does not come into play.
- 102 Instead the balancing of this application, we will be look at paragraphs 147 & 148 of the NPPF, where planning permission should not be granted unless a case of very special circumstances can be demonstrated.
- 103 We are required to *“ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.”*
- 104 Therefore we will look in detail for a number of factors that would potential weigh in favour of the scheme as a case of very special circumstances

Emerging Local Plan

- 105 The application site formed part of a mixed use allocation in the Council Proposed Draft Submission Local Plan, prior to be stopped at the Examination stage. The proposed allocation was to release the site from the green belt for development under a case of exceptional circumstances, due to needing to meet housing demands, but also providing a health centre and safeguarding land for a secondary school. The release of this site was linked to the Council’s development strategy of releasing green belt sites for development where they were adjacent of one of its four main settlements and where they were poorly performing green belts and would provide existing identified infrastructure provision.
- 106 Whilst it is fully acknowledged the Proposed Draft Submission Local Plan holds very limited weight, the principle of only releasing poorly performing green belt sites for housing adjacent to a main settlement in order to provide much needed infrastructure holds some weight.

Five Year Housing Supply

- 107 It is fully accepted that the Council does not have an up to date Local Plan and does not have an adequate five year housing supply. Whilst the Council’s has a Housing Delivery Test Action Plan to tackle the under supply of housing, part of that reliance will be adoption of a Local Plan, which will not come forward until 2023. This site has the ability achieve a significant

contribution towards the District's housing requirement with limited impact upon on the Green Belt.

- 108 The Council's housing situation has been described in previous appeals as "acute" and "chronic", with the Council only able to demonstrate a current supply of deliverable housing land of less than 2.9 years, very substantial weight to the provision of 340 new houses in the current proposal. Further to this, very substantial weight to the proposed delivery of 40% affordable housing on this site, for reasons set out earlier. Therefore the under provision of housing supply holds substantial weight, albeit it does not outweigh the harm to the green belt on its own.

Biodiversity

- 109 The development would have no adverse impact on matters of ecological or nature conservation interest but would, instead, actually result in a net benefit for biodiversity to which limited weight can be attached.

Secondary school

- 110 There is a need for additional secondary school spaces in the town in the future, and by facilitating the delivery of a new secondary school the application proposal would address this future need, and would also satisfy the secondary education demand likely to arise from the development itself. Moreover, no other site has been identified to potentially deliver a new secondary school. This factor should be given significant weight in the proposal's favour.

Medical centre

- 111 In terms of the medical centre provision, even though this was determined under a different planning permission, a significant contribution (in excess of £400k) was made by the landowner (Cooper Estates) to the KCC enable the land associated with the medical centre application to be sold to the National Health Service to facilitate the development. It was originally envisaged for the medical centre to be incorporated with this planning permission, however the NHS wanted to advance the development to ensure funding for the development could be secured. Both the medical centre and this proposal have been designed to link together. Whilst planning permission is already been granted, very limited weight can be attributed to the connections between the two sites.

Highways

- 112 In traffic and transport terms, it is acknowledged that there would be increased traffic on the local highway network, and an increased demand for parking. Having had regard to the proposed contributions towards various junction improvements, and the TRO review, it is concluded on this consideration is that there would be no materially adverse impact on

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traffic, transport, parking and safety matters. With this fairly neutral conclusion, it is not considered that these points add any weight in support of the proposal.

Accessibility to sustainable transport

- 113 The proposal would seek to significantly improve the accessibility to the Edenbridge Town train station, through providing parking spaces to the northern platforms, which currently has no level access, as it is only accessible via steps down and up via an underpass. The proposal would also contribute one million pounds to Network Rail to provide a bridge over the railway line to again improve level access to the station. Improvements for accessibility to the train stations in Edenbridge was identified under the Sevenoaks Infrastructure Delivery Plan and therefore these works and contributions would hold significant weight.

Economic and social benefits

- 114 The proposal would, however, clearly satisfy the economic and social objectives of sustainable development. Some of the matters that make up these objectives, such as the delivery of market and affordable housing have already been accounted for. However, there are other areas of benefit, not specifically included above, such as the detailed economic benefits which would arise in terms of new jobs; a significant amount of “first occupation expenditure” and additional local expenditure, Council Tax payments, and CIL payments. It should be noted that the scheme will provide a dual use scout hall and allotments. These matters add limited weight in support of the application proposal.
- 115 Therefore after balancing all these various factors against the substantial to the harm to the green belt, I am satisfied that a case of very special circumstances exists in supporting this scheme given in will clearly provide evidenced and required infrastructure to meet the needs of Edenbridge going forward.

Conclusion

- 116 The report above identifies the many benefits that the proposals would bring to the site and to the landscape. While local concerns exist in particularly in terms of highways impacts of the development, it has been found that these impacts can be appropriately mitigated by conditions and planning obligations, which would result in highway and pedestrian safety being preserved, and the development would amount to a less than ‘severe’ impact on the highway in terms of its assessment under NPPF paragraph 111.
- 117 In summary, although substantial weight has to be given to the Green Belt by reason of inappropriate development and the impact on openness, it is considered that that this can be clearly outweighed by the significant and in some regards unique benefits of the application proposal, as detailed above.

As such, it is concluded that very special circumstances exist, which would justify this development in the Green Belt.

- 118 The proposal would secure the provision of infrastructure on site as required by planning policy and this would have notable public benefits, as well securing significant CIL contributions. There are requests for further obligations by KCC, but it is has not been demonstrated that these would comply with Section 122 of the CIL Regulations.
- 119 It is recommended that the application be approved and planning permission be GRANTED subject to the conditions and legal agreement detailed above.

Background papers

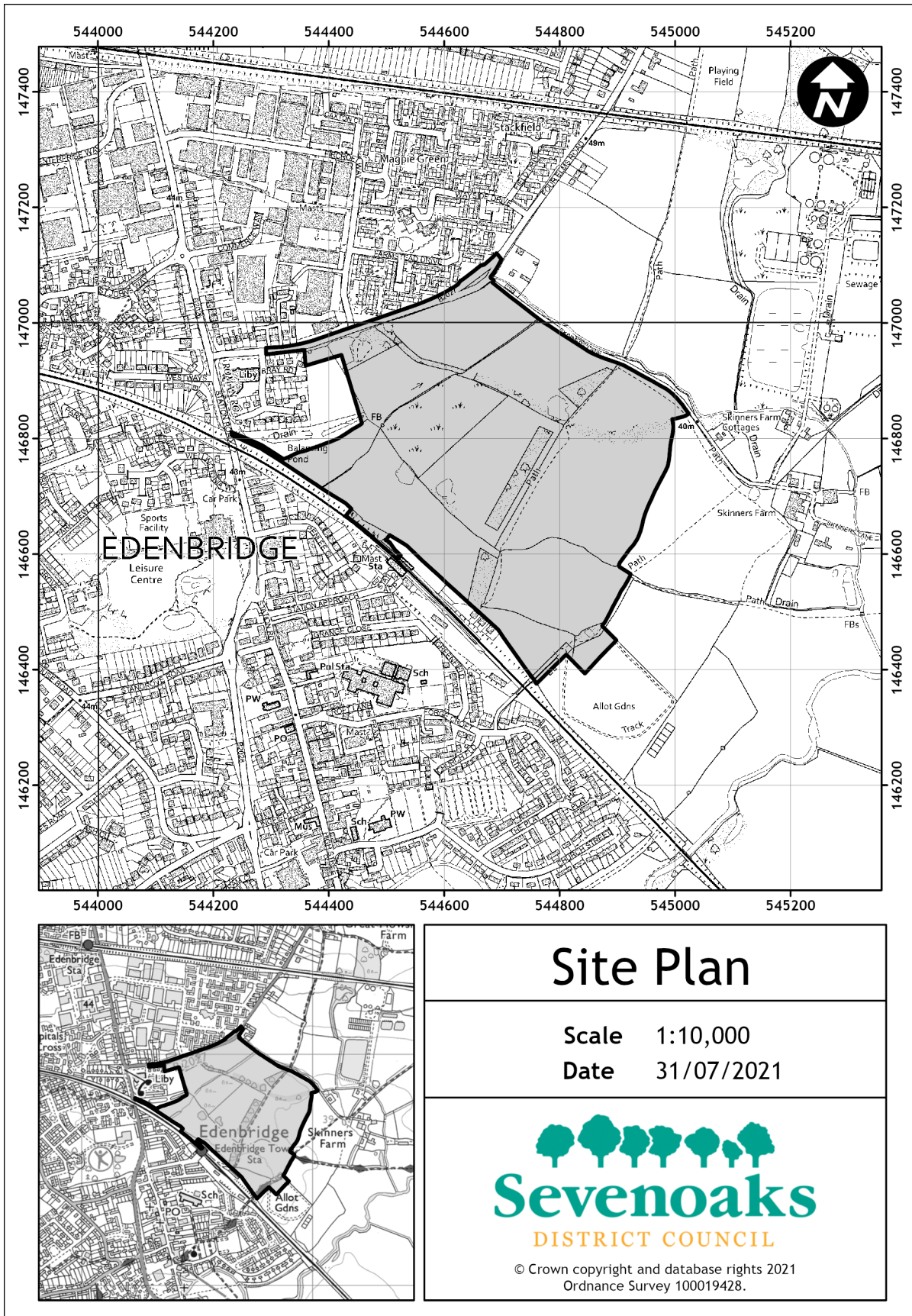
Site and block plan

Contact Officer(s): Aaron Hill: 01732 227000

Richard Morris
Chief Planning Officer

[Link to application details:](#)

[Link to associated documents:](#)



Site Plan

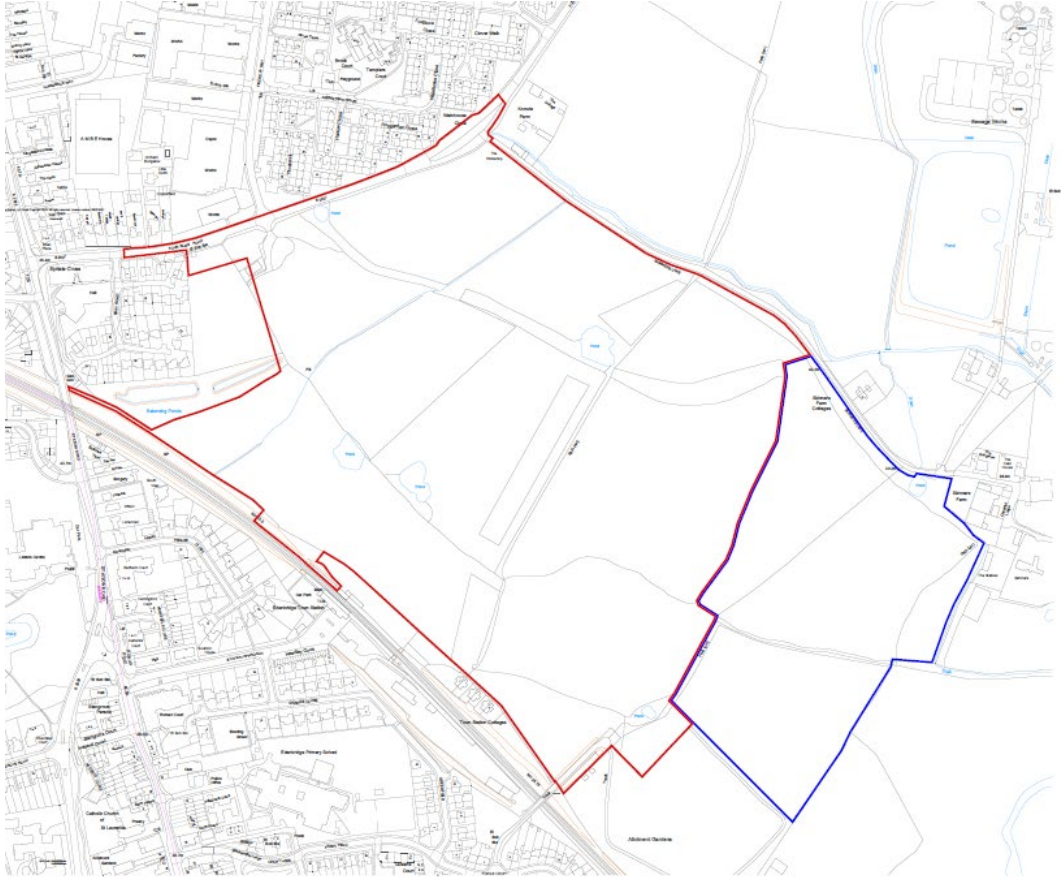
Scale 1:10,000

Date 31/07/2021



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BLOCK PLAN



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4.1 20/02988/OUT Revised expiry date 20 August 2021

Proposal: Outline application for the erection of 340 dwellings, including affordable housing, land for a 4FE secondary school including playing fields, land for a new twin hall venue for Edenbridge Scout Group, creation of a new car park for Edenbridge Town Station and associated infrastructure improvements, allotments, associated access from Four Elms Road, emergency access, open space, attenuation areas and landscaping and some matters reserved save for means of access.

Location: Land North Of Town Station Cottages, Forge Croft, Edenbridge KENT TN8 5LR

Ward(s): Edenbridge North & East

Item for decision

This application has been referred to Development Control Committee at the discretion of the Chief Planning Officer, as the development is of a significant nature being major development within the Green Belt.

RECOMMENDATION A: That the committee resolve that application that planning permission be GRANTED subject to:

- a) Refer the application to the Secretary of State as major development in the Green Belt, to decide whether to call the application in, and
- b) The conditions set out below, subject to any minor changes to wording being agreed in writing by the Chief Officer for Planning and Regulatory Services, and
- c) A satisfactory legal agreement made under section 106 of the Town and Country Planning Act 1990 (as amended) being completed no later than 30 November 2021, unless in accordance with a new timescale otherwise agreed in writing by the Chief Officer for Planning and Regulatory Services.

Section 106 Agreement

The Section 106 Agreement shall include the following requirements:

- Affordable Housing comprising of 40% affordable housing to be provided on site of which 65% of the affordable properties to be provided as Affordable Rented / Social Rented - 35% of the affordable properties to be provided as Intermediate Housing;

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- Highways Contributions comprising:

£20,000 towards relining and resurfacing works in the vicinity of the Four Elms Village crossroads;

- £1,000 to be used by Edenbridge Town Council/Hever Parish Council to help fund traffic surveys in the village of Four Elms;

- Travel Plan monitoring fee of £948;

- £14,000 towards the provision of 2no. bus stops on the site;

- £40,000 to be used for improvements to the sections of Public Right of Way of SR603 and SR604 adjoining the site and linking to the land;

- Provision of 0.29ha of land for new allotments - each plot to be 6m x 9m together with an associated allotment car park (to be provided and transferred to Town Council subject to them confirming required).
- Open Space to be provided on site (and transferred to a management company for future maintenance) comprising of areas of land for amenity greenspace and areas of land for semi natural greenspace;
- 0.104ha of children's play space to be provided as 6 Local Areas of Play (LAP's) and 1 Local Equipped Area of Play (LEAP) unless otherwise agreed;
- The safeguarding and transfer (if called for during a specified period) of 0.37ha of land for the construction of a new scout hut for Edenbridge Scout Group; and £200,000 towards the construction of the scout hut and ancillary facilities (i.e. car-parking and outdoor facilities) thereon if the land is taken;
- The safeguarding of 5.3ha of land to accommodate a secondary school and associated sports facilities and playing fields and its transfer to an education provider if called for within a specified period of time;
- The creation of a new parking area for 36 spaces, pick-up and drop off area and a step-free access ramp leading to the platform at Edenbridge Town Station either through the direct provision by the developer or the provision of land and utilisation of the financial contribution referred to below;
- £1,000,000 contribution payable to Network Rail to be used for safety improvements to the Little Mowhurst level crossing and infrastructure improvements (including new ticket machines, barriers, signage, any project to provide a new passenger footbridge and (if delivered by Network Rail) the new parking area) at Edenbridge Town Station;

- Provision of land and creation of 6 parking spaces for use by residents of Town Station Cottages.

1) Application for approval of the reserved matters for the first Phase of the development shall be made to the local planning authority not later than 3 years from the date of this permission. Application for approval of the reserved matters for all other Phases shall be made not later than 5 years from the date of this permission. For the purposes of this permission all references to a "Phase" or "Phase of development" shall be interpreted as being a reference to a Phase as defined on the phasing plan approved or subsequently updated pursuant to condition 4.

In Pursuance of section 92(2) of the Town and Country Planning Act 1990.

2) The development shall be begun not later than whichever is the later of the following dates:- the expiration of 2 years from the date of approval of the last reserved matters application for the first Phase or the expiration of 5 years from the date of this permission.

In Pursuance of section 92(2) of the Town and Country Planning Act 1990.

- 3) Before any development in each Phase is begun plans showing the:
- a) appearance;
 - b) landscaping;
 - c) layout, including any pedestrian access into and within the site , and vehicular access within the site which serves the Phase; and
 - d) Scale.

To accord with Article 5 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 as amended.

4) As part of, or prior to, the submission of the application for reserved matters for the first Phase of development, a phasing plan setting out the boundaries of the proposed phases of the development across the whole site shall be submitted to and approved in writing by the local planning authority. The phasing plan shall include a programme for the layout out of the access roads into the site. Thereafter each reserved matters application for a Phase submitted pursuant to Condition 3 shall be accompanied by an updated phasing plan. The updated phasing plan shall set out any proposed changes from the phasing plan previously approved pursuant to this Condition. The development shall be carried out in accordance with the phasing plan as approved and updated or required by other conditions of this permission.

To ensure the satisfactory delivery of elements of the proposed development and

to accord with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

5) Development shall not begin in any Phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the Flood Risk Assessment compiled by WSP (September 2020, Version 2). The submission shall also demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

Phasing for the drainage scheme shall be submitted and approved, including any needed temporary works, specific provisions per phase or other strategic drainage infrastructure. The drainage scheme shall also demonstrate (with reference to published guidance):- that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.- appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including and proposed arrangements for future adoption by any public body or statutory undertaker. The drainage scheme shall be implemented in accordance with the approved details.

To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

6) No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate the suitable modelled operation of the drainage system where the system constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework.

7) If, during the course of development of a Phase, contamination not previously identified is found to be present in that Phase, no further works shall be undertaken in the relevant area of that Phase and the contamination shall be

reported to the local planning authority as soon as reasonably practicable (but within a maximum of 5 working days from the find). Prior to further works being carried out in the relevant area of that Phase, a further assessment shall be made and appropriate remediation implemented in accordance with a scheme submitted to and approved in writing by the local planning authority.

To ensure that the site is remediated appropriately for its intended use and to accord with the aims and objectives of the National Planning Policy Framework.

8) As part of, or prior to, the first application for reserved matters, a site-wide recreation and open space strategy for the entire site shall be submitted to and agreed in writing by the local planning authority. The strategy should be in broad accordance with the areas of open space identified in the section 8.3.3 of the Design and Access Statement and drawing no. 1590-P1-11 Rev.N. Thereafter subsequent Phases shall proceed in broad accordance with the approved strategy, and each reserved matters application submitted pursuant to Condition 3 shall be accompanied by an updated recreation and open space strategy which sets out any proposed changes from recreation and open space strategy previously approved pursuant to this Condition.

To ensure adequate provision of public open space to meet the needs of future occupiers of the development and to accord with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

9) No development within a Phase shall commence until the local planning authority has approved in writing the details of, and arrangements for, the setting out of on-site public open space as part of that Phase of the development. The on-site public open space shall broadly accord with the site-wide recreation and open space strategy pursuant to condition 8, and shall include the following matters in respect of the Phase:

- a) The delineation and siting of the proposed public open space;
- b) The type and nature of the facilities to be provided within the public open space including, where relevant, children's play provision;
- c) The arrangements to ensure that the public open space is laid out and completed during the course of the development; and
- d) An annual maintenance schedule.

The open space for that Phase shall be completed in accordance with the approved details and arrangements for that Phase.

To ensure adequate provision of public open space to meet the needs of future occupiers of the development and to accord with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

10) Before any part of any Phase of the development is brought into use, the relevant proposed means of vehicular and pedestrian access hereby approved as part of that Phase shall be laid out, hard surfaced and drained in broad accordance with the approved plans and completed to a constructional specification approved in writing by the local planning authority.

To ensure that a suitable form of access is made available to serve the development in the interests of highway safety and to accord with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

11) No development shall commence for the school playing fields and MUGA, until the following documents have been submitted to and approved in writing by the Local Planning Authority after consultation with Sport England: (i) A detailed assessment of ground conditions (including drainage and topography) of the land proposed for the playing field which identifies constraints which could adversely affect playing field quality; and (ii) Where the results of the assessment to be carried out pursuant to (i) above identify constraints which could adversely affect playing field quality, a detailed scheme to address any such constraints. The scheme shall include a written specification of the proposed soils structure, proposed drainage, cultivation and other operations associated with grass and sports turf establishment and a programme of implementation. The approved scheme shall be carried out in full and in accordance with the approved programme of implementation before first occupation of the educational establishment. The land shall thereafter be maintained in accordance with the scheme and made available for playing field use in accordance with the scheme.

Reason: To ensure that the playing field is prepared to an adequate standard and is fit for purpose and to accord with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

12) No development shall commence for the school playing fields until a schedule of playing field maintenance including a programme for implementation for a minimum period of five years starting from the commencement of use of the development has been submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. Following the commencement of use of the development the approved schedule shall be complied with in full.

To ensure that the playing field is first established as a functional playing field to an adequate standard and is fit for purpose and to accord with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

13) The school playing field/s and pitch/es shall be constructed and laid out in accordance with the condition 12 and with the standards and methodologies set out in the guidance note "Natural Turf for Sport" (Sport England, 2011), and shall be made available for use before first use of the educational establishment of the development hereby permitted.

To ensure the quality of pitches is satisfactory and they are available for use before development and to accord with Policy EN1 of the Sevenoaks Allocations

and Development Management Plan.

14) Use of the school playing fields, multi-use games area and athletic track shall not commence until a community use agreement prepared in consultation with Sport England has been submitted to and approved in writing by the Local Planning Authority, and a copy of the completed approved agreement has been provided to the Local Planning Authority. The agreement shall apply to playing fields, multi-use games area and athletic track and include details of pricing policy, hours of use, access by non-educational establishment users, management responsibilities and a mechanism for review. The development shall not be used otherwise than in strict compliance with the approved agreement.

Reason: To secure well managed safe community access to the sports facility/facilities, to ensure sufficient benefit to the development of sport and to accord with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

15) The development shall be carried out in accordance with the submitted Flood Risk Assessment (ref 3967-FRA-01, dated September 2020) and the following mitigation measures it details:

As part of the reserved matters details of a completely separate flood storage area to compensate the flood risk from river in the area where the finishing levels of the road, which falls within Flood Zone 3, will be raised above pre-development ground levels.

All Finished floor levels shall be set to whichever is the greater level of the following: a minimum of 300mm above the 1 % AEP (35% increased flow) climate change flood level or 50mm above the 1 % AEP (70% increased flow) climate change flood level.

Details to be provided that demonstrate finished site levels to be engineered in such manner to prevent ponding. Gradients of external areas to be designed to fall away from dwellings such that overland flow routes resulting from exceedance flood events follow the path of least resistance and be channelled away from proposed properties.

These mitigation measures shall be fully implemented prior to occupation of the first residential unit.

To ensure that flood risks from development to the future users of the land and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 168 of the National Planning Policy Framework.

16) Any applications for approval of reserved matters pursuant to condition 2 shall broadly accord with the parameter plans land use [GIP (drawing ref no. 1590 P1-12 Rev.G)], proposed lighting parameters in the lighting strategy report, Noise and Vibration Assessment dated April 2020, Landscape and Ecological Strategy

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dated September 2020.

To ensure that the development achieves high quality design and is in accordance with paragraphs 124, 126 and 127 of the National Planning Policy Framework and policies

17) No development of a Phase, shall take place until a detailed 'Landscape, Ecology, Management and Monitoring Plan' (LEMMP) will be submitted to, and approved by, the local planning authority. This will be in accordance with the measures outlined in the Landscape and Ecology Strategy (Corylus Ecology September 2020) and the Biodiversity Net-Gain Report (Corylus Ecology March 2021).

To accord with policy SP11 of the Sevenoaks District Council Core Strategy and paragraph 180 of the National Planning Policy Framework.

18) Notwithstanding the provision of Class A, Part 4 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, or any subsequent legislation, prior to the commencement of each phase of development a plan specifying arrangements for the management of the construction site for that Phase shall be submitted to and approved in writing by the local planning authority. The construction plan for that Phase shall include the following details as appropriate:

- a) full details of the contractor's temporary means of access to the site;
- b) hours of delivery of materials;
- c) location of site management offices and/or sales office;
- d) location of materials storage compounds, loading/unloading areas and areas for construction vehicles to turn within the site;
- e) car parking areas for construction workers, sales staff and customers;
- f) the extent of and surface treatment of all temporary road accesses leading to compound/storage areas
- g) temporary warning and direction signing on the approaches to the site;
- h) implementation of mitigation measures as detailed in Section 7 in the Air Quality Assessment dated June 2020. The construction plan details as approved shall be implemented before the development of that phase is begun and shall be kept in place, operated and adhered to at all times until the development of that Phase is completed. In addition, no vehicles involved in the construction of the development of that phase shall enter or leave the site of the development of that Phase except via the temporary means of access within the approved construction

plan for that Phase.

To ensure the provision of proper site construction facilities in the interests of highway safety and amenity of the surrounding environment and its occupants and to accord with Policies EN1, EN2, T1 of the Sevenoaks Allocations and Development Management Plan.

19) Prior to first occupation of each dwelling with one or more dedicated vehicle parking spaces, that dwelling shall be provided with access to a fully operational 3 pin socket on a dedicated circuit, capable of providing a "trickle" charge to an electric vehicle. All Electric Vehicle Charging Points shall be provided either within garage space or via outdoor, weatherproof sockets within easy access of the off-road parking areas.

In accord with policy T3 of the Sevenoaks District Council Allocation and Development Management Plan.

20) Prior to first occupation of each dwelling with non-dedicated parking, that dwelling shall be provided with Electric Vehicle Charging Points at a rate of no less than 1 per 10 communal parking spaces. This minimum requirement shall comprise access to a fully operational 3 pin socket capable of providing a "trickle" charge to an electric vehicle. All communal Electric Vehicle Charging Points shall be clearly marked with their purpose.

In accord with policy T3 of the Sevenoaks District Council Allocation and Development Management Plan.

21) All other types of development (other than housing, scout hut and allotments site) at the site shall provide Electric Vehicle charging facilities and shall include parking at the proposed education facility. Where provided, all Electric Vehicle charging facilities shall be fully operational prior to first occupation or use.

In accord with policy T3 of the Sevenoaks District Council Allocation and Development Management Plan.

22) Prior to the commencement of any Phase of residential development, a detailed Travel Plan for that Phase which is in broad accordance with the Framework Residential Travel Plan dated June 2021, and finalises the travel plan measures to be put in place for that Phase shall be submitted to and approved in writing by the local planning authority. The detailed Travel Plan for that Phase shall include reference to Travel Plan measures to be set out within the residents' welcome packs. The detailed Travel Plan for that Phase shall thereafter be carried out and operated as approved.

To promote sustainable travel options, minimise reliance on the private car and reduce traffic congestion and demand for on street parking in the locality, in the interests of pedestrian and highway safety and to accord with Policy

23) Six months prior to the occupation of the school, a detailed School Travel Plan which is in broad accordance with the School Sensitivity Impact & Zebra Crossing Feasibility Report dated July 2021, and finalises the travel plan measures to be put in place for the school shall be submitted to and approved in writing by the local planning authority. The School Detailed Travel Plan shall thereafter be carried out and operated as approved.

To promote sustainable travel options, minimise reliance on the private car and reduce traffic congestion and demand for on street parking in the locality, in the interests of pedestrian and highway safety and to accord with Policy T1 of the Sevenoaks Allocations and Development Management Plan.

24) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of any necessary archaeological work:

i) a desk top study exploring the archaeological potential of the site; and if necessary

ii) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and if necessary iii) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority.

To ensure that features of archaeological interest are properly examined and recorded and that due regard is had to the preservation in situ of important archaeological remains, in accordance with Policy EN4 of the Sevenoaks Allocations and Development Management Plan.

25) Construction work shall only be carried out between the hours of 0730 and 1800 on Mondays to Fridays, 0730 and 1300 on Saturdays and at no time on Sundays, Bank or Public Holidays, unless specifically agreed otherwise in writing by the local planning authority.

To protect the amenity of the occupants of nearby dwellings and to accord with policy EN1 of the Sevenoaks Allocation and Development Management Plan.

26) No development shall take place over the alignment of Public Footpath SR603 or SR604 until an Order for their permanent diversion has been made and confirmed, and the diverted route has been fully provided and certified, unless otherwise agreed in writing by the local planning authority.

To ensure that public rights of way are properly safeguarded in the public interest in accordance with Policy T1 of the Sevenoaks Allocations and Development Management Plan.

27) Prior to the commencement of a relevant Phase that affects existing Public Right of Way SR603 and SR604, further details of their resurfacing shall be submitted to and agreed in writing by the local planning authority. The development shall accord with the approved details and implemented in full prior to the first occupation of a residential unit of a relevant phase, unless otherwise agreed in writing by the local planning authority.

To ensure that public rights of way are properly safeguarded in the public interest in accordance with Policy T1 of the Sevenoaks Allocations and Development Management Plan.

28) Prior to the commencement of any phase of the development hereby permitted shall implement mitigation measures in accordance with the Arboricultural and Method Statement and Manual for Managing Trees on Development Site.

To ensure that the appearance of the development enhances the character and appearance of the area as supported by Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

29) The applicant shall obtain a Secured by Design accreditation for the residential development hereby permitted, a copy of which must be submitted to, and approved in writing by the Local Planning Authority unless otherwise agreed within three months of the completion of the development hereby permitted.

In the interest of Security, Crime Prevention and Community Safety and in accordance with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

30) The development hereby permitted shall not be used or occupied until the visibility splays shown on the approved 70003967-SK-10 Rev. D have been provided and anything which obstructs visibility at any height greater than 0.6 metres above the surface of the adjoining carriageway has been removed. Thereafter the visibility splays shall be maintained free from obstruction at all times.

In the interest of highway safety as supported by Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

31) Prior to the commencement of each phase of development (or as part of the Reserved Matters application for that phase), further details of the design and the number of the residential dwellings to be constructed in accordance with Part M4(2) of the Building Regulations shall be submitted to approved in writing by the local planning authority. A total of 17 homes across the site shall be built in accordance with the M4(3)b of Building Regulations.

In accordance with Policy SP5 of the Core Strategy.

32) The proposed scout hut and educational establishment hereby approved

shall achieve a BREEAM minimum rating of 'Very Good' or alternative as agreed in writing by the local planning authority. Evidence shall be provided to the Local Authority in the following format and at the following times: i) Prior to first use of the educational/community element of the development, a final post-construction certificate certifying that the development has achieved a BREEAM minimum rating of 'Very Good' or alternative as agreed, shall be submitted to and approved in writing by the Local Planning Authority. Achievement of BREEAM 'Very Good' or alternative as agreed, must include at least a 10% reduction in the total carbon emissions through the on-site installation and implementation of decentralised, renewable or low-carbon energy sources.

In the interests of environmental sustainability and reducing the risk of climate change as supported in Policy SP2 of the Sevenoaks Core Strategy.

33) Prior to the first use of the educational establishment hereby permitted the off-site highway works as shown on drawing no. 70003967-SK10 Rev.10 (subject to any revisions thereto as may be agreed with the local highway authority through the detailed design process under the relevant highways agreement) shall have been completed in full to the satisfaction of the local planning authority.

In the interest of highway safety as supported by Policies EN1 and T1 of the Sevenoaks Allocations and Development Management Plan.

34) The development shall be constructed to provide on-site modern communication and technology infrastructure, which should include Broadband, high speed internet cabling and digital TV cabling. Details relating to the provision of such infrastructure shall be submitted prior to the commencement of each phase of the development. No residential unit in any phase shall be occupied until the approved infrastructure has been provided in each relevant phase, or in accordance with an alternative timescale agreed by the Local Planning Authority as part of the approved details.

To provide high quality technological infrastructure in accordance with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

35) The development hereby permitted shall be carried out in accordance with the following approved plans: P18099-001D, 7000 3967-SK-25 Rev.A, 7000 3967-SK-10 Rev.D.

For the avoidance of doubt and in the interests of proper planning.

Informatives

1) Guidance on preparing Community Use Agreements is available from Sport England. <http://www.sportengland.org/planningapplications/> For artificial grass pitches it is recommended that you seek guidance from the Football Association/England Hockey/Rugby Football Union on pitch construction when determining the community use hours the artificial pitch can accommodate

2) The proposed development has been assessed and it is the Council's view that the CIL is payable. Full details will be set out in the CIL Liability Notice which will be issued with this decision or as soon as possible after the decision.

3) Please be aware that this development is also the subject of a Legal Agreement under Section 106 of the Town and Country Planning Act 1990.

4) New build developments or converted properties may require street naming and property numbering. You are advised, prior to commencement, to contact the Council's Street Naming and Numbering team on 01732 227328 or visit www.sevenoaks.gov.uk for further details.

5) Should the development be approved by the Planning Authority, it is the responsibility of the applicant to ensure, before the development is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

6) The applicant should note that under the terms of The Conservation of Habitats and Species Regulations 2010, Wildlife and Countryside Act 1981 and Countryside and Rights of Way Act 2000, it is an offence to disturb nesting birds or roosting bats which are also European Protected Species.

You should note that the work hereby granted consent does not override the statutory protection afforded to these and other protected species and you are advised to seek expert advice if you suspect that the demolition would disturb any protected species. Please note that a European Protected Species Licence will be required to allow the proposed development to proceed lawfully. Further details can be found at: <https://www.gov.uk/environmental-management/wildlife-habitat-conservation>

7) The developer is reminded that it is an offence to allow materials to be carried from the site and deposited on or damage the highway from uncleaned wheels or badly loaded vehicles. The Highway Authority will seek, wherever possible, to recover any expenses incurred in clearing, cleaning or repairing highway surfaces and prosecutes persistent offenders. (Highways Act 1980 Sections 131, 148, 149).

RECOMMENDATION B: If the S106 legal agreement is not completed in accordance with the above recommendation (A), that planning permission be REFUSED on the following grounds:

The development represents inappropriate development within the Green Belt and would lead to encroachment and urban sprawl. The very special circumstances advanced in this instance are not significant to outweigh the substantial harm to its openness and two out of the five purposes for its designation, contrary to the aims and objectives of the National Planning Policy Framework.

National Planning Policy Framework

In dealing with this application we have implemented the requirements in the National Planning Policy Framework to work with the applicant/agent in a positive, proactive and creative way by offering a pre-application advice service; as appropriate updating applicants/agents of any issues that may arise in the processing of their application and where possible and if applicable suggesting solutions to secure a successful outcome. We have considered the application in light of our statutory policies in our development plan as set out in the officer's report.

Description of site

- 1 The application site covers an area of some 27.5 hectares located on the eastern edge of Edenbridge. It consists of a 23.3 hectares area of land owned by Cooper Estates Strategic Land Limited (CESL) and 4.2 hectares at the northwest corner of the Site owned by Kent County Council.
- 2 The site is located within the Metropolitan Green Belt and is outside, but adjacent to the Edenbridge settlement boundary.
- 3 It consists of an area of agricultural fields located to the south of the B2027 Four Elms Road and south of Skinners Lane (the CESL land); and a further area adjacent to Four Ems Road consisting of part of the former Eden Valley School site (the KCC land).
- 4 The CESL land consists of a series of relatively small to medium scale pastoral fields, separated by hedgerows, with a notable woodland 'shaw' and more recent area of woodland planting passing through the centre of the site in a northwest to southeast direction (the shaw), and a northeast to southwest direction respectively. The KCC land consists of an area of scrubland containing some tree planting to the south, and a field divided into a temporary overflow car park (used by the Eden Centre) and an area of grassland used by dog walkers to the north.
- 5 Two attenuation ponds associated with the Eden Centre/Bray Road development are found immediately to the northwest of the site; the area contains two streams, one running along the northern edge of Skinners Lane (connecting the Edenbridge industrial estates to the northwest, to the River Eden to the south), and one branching off this (crossing the site to the south of the lane and passing through both the CESL land and the KCC land); and the site contains five ponds (located within in adjacent to the woodland shaw and other groups of trees within the dividing hedgerows).
- 6 The site also contains numerous mature trees and woodland areas within its boundaries (in particular the woodland shaw and more recently planted tree belt crossing the Site from northwest to southeast and northeast to

southwest respectively), and trees around the five ponds on Site. Two notable stand-alone oak trees are also found in the north-western most part of the Site.

- 7 A footpath (Footpath SR603) runs through the site along the southeastern edge of the planted woodland belt, linking the town centre via a bridge over the East Grinstead to Uckfield railway to the landscape on the north side of Skinners Lane (and beyond); and a short section of Footpath SR604 which forms part of the Eden Valley Walk also passes through the southern end of the site, before heading northeast across the fields towards Skinners Farm and beyond.
- 8 Vehicular access to the site from the surrounding road network is found at two locations on Four Elms Road and one location on Skinners Lane, and via a field gate opposite the entrance to the town allotments (accessed via the bridge over the railway). Other access points are only available from the fields to the southeast.
- 9 There is no built form present on site and the site is wholly designated within the Metropolitan Green Belt

Description of proposal

- 10 This application seeks outline planning permission for the development of the site for residential purposes and associated community uses, with all details reserved for future determination other than points of access into the site. That said, the planning application has been accompanied by an Indicative Masterplan, which provides further detail as to how the development would be laid out on the site.
- 11 An application for outline planning permission allows for a decision on the general principles of how a site can be developed. Outline planning permission can be granted subject to conditions requiring the subsequent approval of one or more 'reserved matters'. Reserved matters are those aspects of a proposed development which an applicant can choose not to submit details of with an outline planning application but can submit for approval at a later date. Planning legislation defines Reserved Matters as being: access; appearance; landscaping; layout, and scale.
- 12 In this case the application form confirms that, insofar as the outline part of the application is concerned, the applicant seeks approval only of the access to the site. Other reserved matters, being appearance, landscaping, layout and scale, would be subject to subsequent reserved matters applications in the future.
- 13 The outline parts of the development proposal includes:
 - 340 residential dwellings with 40% being affordable units;
 - Land for a 4FE (Form entry) or 6FE secondary school;

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- Land for a new twin-hall venue (a Scout Hut and Headquarters) for Edenbridge Scout Group with sufficient land for parking and outdoor space;
- Provision of 0.29ha of land for allotment plots including a car park;
- Creation of a new car park and associated improvements at Edenbridge Town Station;
- Creation of a private parking area for Town Station Cottages; and
- Associated open space, attenuation areas, and landscaping and ecological Enhancements.

14 Further to the above, an s106 agreement has been proposed that seeks to deliver the following:

- Affordable Housing comprising of 40% affordable housing to be provided on site of which 65% of the affordable properties to be provided as Affordable Rented / Social Rented - 35% of the affordable properties to be provided as Intermediate Housing.

- Highways Contributions comprising:

£20,000 towards relining and resurfacing works in the vicinity of the Four Elms Village crossroads;

£1,000 to be used by Edenbridge Town Council/Hever Parish Council to help fund traffic surveys in the village of Four Elms;

Travel Plan monitoring fee of £948;

£14,000 towards the provision of 2no. bus stops on the site;

£40,000 to be used for improvements to the sections of Public Right of Way of SR603 and SR604 adjoining the site and linking to the land;

- Provision of 0.29ha of land for new allotments - each plot to be 6m x 9m together with an associated allotment car park (to be provided and transferred to Town Council subject to them confirming required).
- Open Space to be provided on site (and transferred to a management company for future maintenance) comprising of areas of land for amenity greenspace and areas of land for semi natural greenspace;
- 0.104ha of children's play space to be provided as 6 Local Areas of Play (LAP's) and 1 Local Equipped Area of Play (LEAP) unless otherwise agreed;
- The safeguarding and transfer (if called for during a specified period) of 0.37ha of land for the construction of a new scout hut for Edenbridge Scout Group; and £200,000 towards the construction of the scout hut and ancillary facilities (i.e. car-parking and outdoor facilities) thereon if the land is taken;

- The safeguarding of 5.3ha of land to accommodate a secondary school and associated sports facilities and playing fields and its transfer to an education provider if called for within a specified period of time;
- The creation of a new parking area for 36 spaces, pick-up and drop off area and a step-free access ramp leading to the platform at Edenbridge Town Station either through the direct provision by the developer or the provision of land and utilisation of the financial contribution referred to below;
- £1,000,000 contribution payable to Network Rail to be used for safety improvements to the Little Mowhurst level crossing and infrastructure improvements (including new ticket machines, barriers, signage, any project to provide a new passenger footbridge and (if delivered by Network Rail) the new parking area) at Edenbridge Town Station;
- Provision of land and creation of 6 parking spaces for use by residents of Town Station Cottages.

Relevant planning history

- 15 07/01932 - Redevelopment of the site involving the demolition of the existing school buildings & the erection of a community centre & 40 residential dwellings together with associated landscaping & highway works - GRANTED
- 16 08/00252 - Change of use of school grounds and playing fields including two sports pitches to public open space including two sports pitches - GRANTED
- 17 10/01735 - Redevelopment of the site involving, the erection of a community centre and 40 residential dwellings. (Amendment to that previously granted permission under SE/07/01932/FUL) - GRANTED
- 18 12/00362/CONVAR - Variation of condition 33 (approved plans) of 10/01735/FUL - Redevelopment of the site involving, the erection of a community centre and 40 residential dwellings. (Amendment to that previously granted permission under SE/07/01932/FUL). In order to make amendments to the site layout plan to give a softer appearance to the site whilst also giving extra amenity space for residents - GRANTED
- 19 19/01682 - Health and wellbeing centre on land to the south of Four Elms Road, Edenbridge, with appropriate car parking and landscaping - GRANTED

Policies

- 20 National Planning Policy Framework (NPPF)
- 21 Core Strategy (CS)

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- L01 Distribution of Development
- L08 The Countryside and the Rural Economy
- SP1 Design of new development
- SP2 Sustainable Development
- SP3 Provision of Affordable Housing
- SP5 Housing Size and Type
- SP7 Density of Housing Development
- SP9 Infrastructure Provision
- SP10 Green Infrastructure, Open Space, Sport and Recreation Provision
- SP11 Biodiversity

22 Allocations and Development Management Plan (ADMP)

- SC1 Presumption in Favour of Sustainable Development
- EN1 Design Principles
- EN2 Amenity Protection
- EN7 Noise Pollution
- G11 Green Infrastructure and New Development
- G12 Loss of Open Space
- T1 Mitigating Travel Impact
- T2 Parking
- T3 Provision of Electric Vehicle Charging Points

23 Other:

- Development in the Green Belt Supplementary Planning Document (SPD)
- Edenbridge Residential Character Assessment
- Sevenoaks Countryside Assessment

Constraints

24 The following constraints apply:

- Metropolitan Green Belt
- Flood Zones 2, 3 (part of)
- Area of Archaeological Potential (part of)

Consultations

- 25 Edenbridge Town Council - "Members supported the outline application for the proposed development; but noting that the detail would be consulted on under reserved matters.
- 26 Whilst the Town Council is keen to protect the Green Belt, it acknowledges the exceptional circumstances on this lower performing Green Belt site. To ensure security for 'exceptional circumstances', it asks that the time constraint for the secondary school be extended considerably past 2035 (as suggested in the S106 agreement) to allow for this to be realised.

27 In the meantime, the site could be transformed into a Wildflower area.

28 Members objected to the proposed access point for this development.

- It is unacceptable as it is too close to the junction into Skinners Lane.
- The ghost island and pedestrian refuge will make it impossible for eastbound traffic to turn right into Skinners Lane;
- A traffic light pedestrian crossing would be better, at some point on that road.
- The low railway bridge to the east of Skinners Lane junction restricts access for HGVS. Therefore, all lorries approach Skinners lane will do so from the west and unable to make the right hand turned to Skinners Farm and Southern Water Sewerage Farm.
- the increase traffic would have an impact on the main crossroads junction in Four Elms Village and improved safety measures for this area should be included, both traffic and pedestrian safety”.

29 Other Consultees

30 KCC Education Officer - “Kent County Council (KCC) Education has considered your proposal to develop land south of Four Elms Road, Edenbridge. We note your proposal to allocate sufficient land for a 4-6FE secondary school on the site.

31 Kent County Council welcomes this proposal to provide a school site for a number of reasons.

32 Demand for Places

33 There is currently and forecasted to continue to be, a significant demand for secondary school places in the Sevenoaks District. For the next intake in September 2021, we are expecting there to be no, or very few, surplus places. This is as a result of gradual increase in the primary school intakes across the whole District, to accommodate new local demand. From the current Kent Commissioning Plan:

Sevenoaks Analysis – Secondary
Year 7 surplus/deficit capacity if no further action is taken

Planning Group name	2019-20 capacity	2019-20 (A)	2020-21 (F)	2021-22 (F)	2022-23 (F)	2023-24 (F)	2024-25 (F)	2025-26 (F)	2026-27 (F)	2026-27 capacity
Sevenoaks and Borough Green Non-Selective	615	-21	-19	-49	-37	-35	-54	-27	-35	585
Dartford and Swanley Non-Selective	1,135	22	-28	-28	-101	-137	-86	-141	-150	1,140
West Kent Selective	1,200	-22	-61	-91	-129	-96	-84	-39	-68	1,145

34 It should be noted that the table above provides an indication of the position, based on what has been approved. Any new housing, particularly

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the Four Elms Road development itself will increase the numbers of secondary aged students which will cause the deficit to rise further.

- 35 Non Availability of Sites
- 36 KCC Education understands that more than 90% of Sevenoaks is metropolitan green belt, and that therefore, land availability is challenging. KCC Education further understands that where there is land available, such as following a 'call for sites' exercise, the District Council must prioritise housing. With new housing comes a need for more school places, both secondary and primary. The difference being that a 2FE Primary School can be accommodated on a site between 1.7 to 2 hectares. A 4FE secondary school site needs more than double that, so the opportunities to identify a site are fewer.
- 37 KCC Education therefore considers the offer of a secondary school site to be very helpful to ensure that children in the Edenbridge area have access to a secondary school.
- 38 Local Pressures
- 39 It is necessary to understand the pressures that impact on Edenbridge secondary provision. Secondary school aged children in Edenbridge have a wide variety of schools available to them. However, all these schools are usually some distance away from their place of residence. Nearly all schools in England operate an oversubscription criterion that measures the straight-line distance between a school and the child's home, with the nearer student likely to be offered the place. Therefore, while an Edenbridge student can try to apply for a Grammar school place, a faith school place or a place in an all-ability school, their straight-line distance may put them at a disadvantage.
- 40 This issue affects cross border applications too. Secondary schools in Surrey, East and West Sussex may take Edenbridge students, but we have been notified that places are becoming fewer, due, in part, to those local authorities approving new housing in those areas - so increasing more local demand. Without a new school in Edenbridge, any new students will likely have to travel much further to find a school place.
- 41 Sustainability
- 42 Notwithstanding the above justifications, KCC Education would highlight the issue of sustainability of a new school.
- 43 Although by no means certain, any new school would be more likely to be funded by the Department for Education (DfE). The Department has guidelines on the size of school that it would consider of a size to be financially viable. A 4FE secondary school would have to be carefully

planned for the DfE to agree to build and promote. A 6FE secondary school is far more likely to gain approval by the DfE.

- 44 The issue is that KCC would need to query whether a 6FE school is going to attract sufficient students to make it financially viable. Edenbridge is a standalone community, and while a new school could offer places to students across West and South West Kent, KCC would need to conduct studies to ascertain whether there is sufficient demand in the short, medium and long term.
- 45 The opinion will be linked to an analysis of the number of surplus places, or deficit places, that exist in the schools that traditionally, Edenbridge students apply to, for places. Currently, there is insufficient demand for a 6FE school, but it is highly likely that this situation will change in the future; particularly following publication and implementation of the Sevenoaks Local Plan. Once the Local Plan has been published and sites begin to be developed, there will be a need for new, additional secondary provision for students in Edenbridge to ensure that children from planned new developments have access to secondary education. The offer to retain the site for school use until 2035 or beyond, is therefore very welcome and necessary.”
- 46 SDC Planning Policy - “You will be aware that Pro-Vision represented Cooper Estates during the Local Plan Examination and sought to justify the allocation of the site for mixed-use development. The Council supported these proposals on the basis that they demonstrated exceptional circumstances to justify the release of the site from the Green Belt, through the plan making process.
- 47 The examination of the Local Plan and the subsequent legal challenges have now concluded. Cooper Estates has chosen to progress the proposals as a planning application and is seeking to demonstrate a very special circumstances justification for inappropriate development in the Green Belt.
- 48 The Emerging Local Plan
- 49 A key issue covered in the correspondence from the applicant relates to the weight that should be attached to the Proposed Submission version of the Council’s Local Plan (hereafter referred to as the PSLP), as a material consideration in the decision making process.
- 50 The letter from Pro-Vision dated 9th March 2021 states that:

‘...having regard to Paragraph 48 of the Framework, it is reasonable to attach significant (or great) weight in decision making to the proposed allocation of this site.’

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- 51 Given the current status of the PSLP and the Council's legal action, officers continue to be of the view that limited weight can currently be afforded to it in the decision making process.
- 52 Provision of housing, affordable housing, older person's housing
- 53 Clarification was welcomed from the applicant on the following issues:
- Intended split of homes to be made available for affordable housing - 43 x 1b, 46 x 2b, 37 x 3b and 10 x 4b. This is a good split in terms of meeting current housing needs and is supported.
 - It is noted that the applicant could provide 16 x 1b and 2 x 2b homes for older people. However, this would not be specialist retirement housing (i.e. in a dedicated scheme) and it is assumed that no support facility would be provided. We would therefore expect that, once built, these homes will be targeted at older people on the SDC Housing Register, through a local lettings plan.
 - 1 and 2 bed apartments and 3+ bed houses to achieve compliance with M4(2) accessibility standard. This is welcomed and we expect this matter to be included in a planning condition.
 - 17 homes (5% of total) to achieve compliance with the M4(3) accessibility standard. This is welcomed and it is expected that these homes will be provided as Affordable Rented/Social Rented housing. We would ask that the homes meet standard M4(3)b, to ensure they are immediately available for a disabled occupier, to be secured via a planning condition.
- 54 Provision of infrastructure - health, education, transport, open space
- 55 As stated in the comments to you dated 3rd February 2021, the PSLP provided a strategy to release land from the Green Belt for new housing development, where there were exceptional circumstances for doing so.
- 56 Paragraph 1.12 of the PSLP identified the considerations that were relevant in the Council's exceptional circumstances test, including 'Whether the release of land will result in the delivery of infrastructure to meet an existing evidenced based need'.
- 57 Pages 29-31 provided further detail on the strategic sites identified for mixed-use development. The social and community infrastructure listed in relation to the Four Elms Road site, which is now the subject of this application, included:
- Land for medical services (combined GP surgery and hospital).
 - Land for educational use - secondary school and playing fields.
 - Transport improvements including better connectivity to the station and disabled access - level disabled access including pedestrian footbridge and lift.
 - New station car park.

- Community facilities (scout hut).

58 During the course of discussions on 9th March 2021, the applicant outlined how they facilitated the provision of the adjacent medical centre, through a financial contribution, which demonstrates the linkages to the wider site masterplan. Although the medical scheme has already been consented, it is now understood how the sites are inter-linked, in terms of highways and access routes and their delivery.

59 In relation to the delivery of a school on the site, the applicant's email dated 26th March 2021 states they have done what is required of them by the policy. It is also noted that the land identified on the illustrative masterplan is sufficiently sized to accommodate a 6FE school, if required.

60 The email goes on to refer to the letter received from Ian Watts of Kent County Council (KCC), which welcomes the proposal to provide a school site and states:

‘Although by no means certain, any new school would be more likely to be funded by the Department for Education (DfE). The Department has guidelines on the size of school that it would consider of a size to be financially viable. A 4FE secondary school would have to be carefully planned for the DfE to agree to build and promote. A 6FE secondary school is far more likely to gain approval by the DfE.’

61 The issue is that KCC would need to query whether a 6FE school is going to attract sufficient students to make it financially viable. Edenbridge is a stand-alone community and while a new school could offer places to students across West and South West Kent, KCC would need to conduct studies to ascertain whether there is sufficient demand in the short, medium and long term.’

62 The letter notes there is currently insufficient demand for a 6FE secondary school, but it is likely that the situation will change in the future, following the publication of the Local Plan. As stated above, the PSLP is not currently progressing.

63 In relation to the deliverability of the school, the applicant states that:

‘it is not for the applicant to deliver the school - that is the responsibility of KCC education and SDC.’

64 The latest advice from KCC suggests a degree of uncertainty as to whether the release of the site will result in the provision of educational infrastructure to meet an existing need, in the form of either a four form entry or six form entry school. These uncertainties should be taken into account in the assessment of the proposals.

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- 65 Backstop position
- 66 There is ongoing discussion regarding suitable meanwhile uses and the 'backstop' position if a school is not able to be secured on the site within the relevant period. DM colleagues are to provide an example of where a financial contribution to health was secured via s106, where a medical centre could not eventually be provided on site.
- 67 Station Access
- 68 It is understood that discussions are on-going with Network Rail in relation to access improvements at Edenbridge Town station. The applicant described the Network Rail (NR) requirements at the station and that the proposals would improve access to the platforms, albeit not between platforms. The applicant noted the NR accessibility commitment to allow passengers to return to their home station (including the provision of taxis and permission to ride-on to accessible stations) and it was suggested that this information is included within the application.
- 69 Open space / play space
- 70 In relation to open space/play space, the site design guidance from the PSLP suggested:
- The specifics of any scheme should be developed in conjunction with the local community, including through the Neighbourhood Plan process where applicable.
 - Provision of public open space will be required to support the development. The type and layout of open space will be a matter for consultation with the local community, but should include amenity greenspace and childrens' play space.
- 71 Density and making effective use of land
- 72 The NPPF is clear that new development should make effective use of land. Para 117 states that 'planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses'. Further, para 122 goes on to say that 'planning policies and decisions should support development that makes efficient use of land'. It is understood that the proposal amounts to a blended density across the site of approximately 30 DPH and that the number of units in this application is broadly in line with the PSLP.
- 73 The applicant referenced the constraints of the site, including areas subject to flooding, but noted that the proposed density figure relates to net developable area, so these constrained areas are not relevant to the assessment of the best use of land. It was discussed whether the description of development could be amended to express the quantum of housing as a 'minimum' to allow for greater flexibility at the reserved matters stage,

should the design development process provide for a greater number of units to be accommodated on the site.

- 74 Pre-application discussions
- 75 Given the scale and nature of development proposed, it is disappointing that the applicant chose not to engage in pre-application discussions. The Council encourages this process to ensure that areas of potential disagreement can be addressed at the earliest possible stage. Officers note the applicant's view that the process may not have changed the scheme that is currently before the Council.
- 76 Key conclusions
- 77 The applicant has chosen to progress the proposals as a planning application and a key aspect of the decision making process therefore rests on whether very special circumstances have been demonstrated to justify inappropriate development in the Green Belt. The advice in this and other notes should guide the judgement on this matter.
- 78 The Proposed Submission Version of the Sevenoaks Local Plan is currently not progressing and cannot be afforded significant weight in the decision making process.”
- 79 SDC Urban Design Officer - “..A parameter plan indicating the means of access is submitted (1:2500 or 1:5000 on A3 depending on site boundary) should be submitted. This should include the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network. We are aware that these are indicated in the Design and Access Statement (DAS) however a separate plan should be submitted in order to make an assessment on the proposed access from a scaled drawing.”
- 80 Connectivity and accessibility to the train station from the eastern side and connecting to the western side on this site is key. This will be fundamental in unlocking this site and integrating this extension to the existing town confines of Edenbridge. This should be secured through Section 106 agreement. Reason: in line with the NPPF and local policy, to promote healthy and safe communities (NPPF, chap. 8) and that opportunities to promote walking, cycling and public transport use are identified and pursued (NPPF, para. 102).
- 81 The proposed layout has been explained in the DAS under design evolution under para 8.1, page 40. The connection to the train station is a key opportunity for this site, and the justification for the school being located opposite the access point to the train station is to improve accessibility to the train station for potential students, consolidate traffic generated from school pick up and drop to this area, as well as separating the residential areas from the railway line. The school will therefore become a key building

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in creating a sense of arrival and contribute to place shaping within this new community. We would request that an updated response from KCC education is required as part of this application in order to make an assessment on the viability of a school in order to make an assessment on the proposed land use at this key location within the site. Should this proposed use be established, it would be useful to submit a phasing plans we are clear on the phasing sequence of the development parcels. How does the 'school zone' relate to the phasing of housing parcels coming forward? As the 'school zone' will be a key part in activating the linkage to the train station and the building creates an important frontage to the site. Are there any meanwhile uses proposed should the housing parcels come forward first? How will the 'school zone' and the boundary treatments be addressed to ensure the development makes connections from housing areas to destinations ensuring that they are safe, direct, convenient and accessible? (NPPF: chap. 8, 9 and 12 and National Design Guide: Movement, Nature, Public Spaces and Homes & Buildings).

- 82 We encourage innovative approaches which promote high levels of sustainability. We could not see an energy strategy with the design and access statement for the proposed development. We would be looking for information on how the development will optimise thermal performance, minimise the demand for energy, supply the remaining energy requirements efficiently and optimise the use of renewables in order to align with the Government's emerging zero carbon policy. Further to this, we expect the development to future proof the needs of residents by providing, for example, all new houses with a garage or vehicular accesses should include an electrical socket with suitable voltage and wiring for the safe charging of electric vehicles. Schemes for new apartments and houses with separate parking areas should include a scheme for at least one communal charging point (ADMP, Policy T3).
- 83 A condition is to be prepared to submit a design code prior to the commencement of development or approval of any reserved matters applications. This should bring together the main principles of the Design and Access Statement with Parameter Plans which are informed by the 10 characteristics of good places set out in the National Design Guide. Reason: to achieve well-designed places (NPPF, chap. 12, para.126) and to ensure that all new development is designed and delivered to a high quality and responds to the distinctive local character.”
- 84 Highways England - No objection
- 85 Network Rail - “A level crossing options assessment has identified the most appropriate form of mitigation at the Little Mowhurst Footpath Level Crossing would be the VaMaS Flex system. This is a Miniature Stop Light System which detects the train approaching and sets off an audible alarm and lights at the crossing.”

- 86 This would be in the order of £400-£500k. I have spoken to Paul Donald and he is accepting for this to come from the £1m, which he had previously discussed for station improvements.
- 87 On this basis, we are happy to withdraw our objection to the development, provided an s106 agreement is entered into which sets out the £1m contribution to go towards both station improvements and a level crossing upgrade.”
- 88 KCC Highways - “provided the following requirements are secured by condition or planning obligation, then I would raise no objection on behalf of the local highway authority:”-
1. Vehicular access arrangements to consist of a primary access onto the B2027 Four Elms Road as shown in principle on Drawing Number 70003967-SK-010 Rev D and separate secondary access and an emergency access via Forge Croft/Frantfields.
 2. The applicant has agreed to pursue an extension to the 30mph speed limit along Four Elms Road via the 3rd party TRO process.
 3. Additional space to be provided for the bus/coach drop off/pick area and a separate/segreated student drop off/pick up area to be provided prior to the occupation of the school.
 4. A Transport Assessment review to be provided prior to the commencement of the school site when it is known whether a 4FE or 6FE school is required and what bus services are available at that time.
 5. Details of arrangements for delivery vehicles to park and manoeuvre clear of the highway.
 6. Delivery management plan is required in respect of the school, prior to occupation.
 7. Parking restriction are required to prevent commuter and school parking on the areas needing to be clear of parking to allow safe passage of through vehicles. This can then be formalised through a 3rd party TRO to be pursued by the developer when the road is being adopted. Any additional /extension needed can be pursued following full occupation. Therefore, a 3rd party TRO is needed as a condition on any planning consent together with a contribution of £4000 for further extensions/modifications following full occupation.
 8. A zebra crossing on Four Elms Road between the secondary access and Fircroft Way to allow a safe and direct crossing route for pedestrians to be provided by way of S278 works prior to the occupation of the school.

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9. The diversion of the 231 and 233 bus services into the site is required and subject to agreement with the bus operators and bus stops within the development are required subject to triggers to be agreed with bus operators and KCC Public Transport team.
10. S106 contributions towards bus services to ensure adequate provision to meet demand. Details to be agreed with KCC Public Transport team.
11. Cycle parking/ disabled parking/motorcycle and EV parking is required at the new station car park.
12. A highway improvement scheme to be provided by the developer via S278 agreement at Four Elms as shown in principle on Drawing Number 70003967-SK-024A and comprising an extension to the 30mph speed limit, new gateway feature and modifications to the existing gateway feature.
13. A Travel Plan including targets to achieve a reduction in vehicle trips of 10% be registered with KCC Jambusters website and a monitoring fee of £948 is required via a S106 Agreement.
14. A separate School Travel Plan is required before the new school shall be brought into use, to reduce dependency on the private car. This should be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include objectives and modal-split targets, a programme of implementation and provision for monitoring, review and improvement. Thereafter, the Travel Plan shall be put into action and adhered to throughout the life of the development, or that of the Travel Plan itself, whichever is the shorter.
15. Submission of a Construction Management Plan before the commencement of any development on site to include the following:
 - (a) Routing of construction and delivery vehicles to / from site
 - (b) Parking and turning areas for construction and delivery vehicles and site personnel
 - (c) Timing of deliveries
 - (d) Provision of wheel washing facilities
 - (e) Temporary traffic management / signage
16. Completion and maintenance of the accesses shown on the submitted plans prior to the use of the site commencing.

17. Provision and maintenance of the visibility splays shown on the submitted plans with no obstructions over 0.6 metres above carriageway level within the splays, prior to the use of the site commencing.”

89 KCC Public Right of Way - “...Public Footpaths SR603 and SR604 pass directly through this application site and would be affected by the proposal. The applicant has acknowledged the existence of these PRow, but failed to accommodate the Definitive alignment of these routes on their plans.

90 While I am confident that the issues raised in this letter can be resolved, until plans have been put forward to consider these matters, I have no option than to place a holding objection at this time. The KCC PRow and Access Service would welcome engagement with the applicant to consider the matters highlighted in this response.

91 If you are minded to approve the application, I ask that you make the following conditions;

1. No development shall take place over the alignment of Public Footpath SR603 or SR604 until an Order for their permanent diversion has been made and confirmed, and the diverted route has been fully provided and certified.

Reason: To ensure that public rights of way are properly safeguarded in the public interest.

2. That the public rights of way within the development site be surfaced by the developer to a specification agreed with the KCC's PRow and Access Service prior to commencement.

Reason: As mitigation for the predicted increase in use by new residents and visitors to the area.

3. That a Section 106 contribution is provided to the County Council, to a level no less than £40,000, for the purposes of improving the surface, accessibility and environment of the PRow network surrounding the development site.

Reason: As mitigation for the predicted increase in use by new residents and visitors to the area.”

92 Sports England - Supports the application subject to imposition of recommended conditions relating to sports field development.

93 Natural England - No objection

94 Kent Wildlife Trust - “objects to this application on the grounds that the applicant has failed to demonstrate that it will achieve net gain to

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biodiversity, or at minimum avoid net loss, in contravention of national and local planning policy. We would be prepared to withdraw this objection if the applicant is able to produce an assessment of the site using the Defra Biodiversity Metric 2.0 that demonstrates how that biodiversity net gain can be achieved through the development.”

- 95 KCC Ecology - “Our previous response advised that the ecological assessment and landscape strategy were suitable, but that it had not been conclusively demonstrated that biodiversity net-gain (BNG) could be achieved. Defra Metric calculations, along with supporting documents, have now been provided.
- 96 We note that the calculations appear accurate, with full justification given for the 'habitat conditions' (the only subjective parameter in the metric) and clear management prescriptions to achieve expected net-gain.
- 97 The results of the calculation denote a relatively small increase in biodiversity, with all the proposed habitats (including a c.26% gain hedgerow habitat units) producing a net-gain of over 10% - generally considered the minimum increase at present.
- 98 As mentioned within the BNG report, the metric does not take into account species, nor does it account for impacts from an occupied residential development, e.g., cat predation and recreational disturbance. The impacts from the occupied development are likely be significantly impactful, detracting from the overall BNG. Therefore, it is vital that the recommendations within the BNG report are enacted to maximise biodiversity value and limit these negative impacts. Future management should be agreed and secured with the local planning authority.
- 99 Protected Species Mitigation
- 100 Regarding ecological impacts during the construction phase, we advise that the proposed mitigation measures (as discussed in our previous advice note) are finalised and submitted for approval before any works commence (including site clearance). As noted in the original survey report, exact design details are not known at this stage and, therefore, a detailed mitigation strategy will need to be produced and implemented.
- 101 We agree with the outline mitigation strategy for the construction phase and advise that a condition is attached to any granted planning permission. Suggested wording.
- 102 Prior to any site clearance and accompanying the first reserve matters application, a detailed mitigation strategy will be submitted to, and approved by, the local planning authority. This will be in accordance with the outline mitigation measures in section 12 of the Ecological Survey Report (Corylus Ecology July 2020).

- 103 Biodiversity Net-Gain
- 104 As mentioned in our previous advice note, we are supportive of the proposed habitat enhancements and creation (as outlined within the 'Landscape and Ecological Strategy' (LES)), which also included monitoring post-development. Further information regarding the future management of these habitats has been provided in the BNG report.
- 105 As with mitigation measures at the construction stage, a detailed 'Landscape, Ecology, Management and Monitoring Plan' (LEMMP) will need to be produced once the final design is confirmed and submitted with the reserve matters application(s) to ensure net-gain can be delivered. Crucially, to ensure maximum biodiversity value is gained and maintained, management of the landscape/ecological features should be subject to an S106 agreement.
- 106 To secure the production and implementation of a suitable LEMMP, we advise a condition is attached to any granted planning permission.”
- 107 Environment Agency - No objection subject to flood mitigation measures conditions.
- 108 Southern Water - No objections raised subject to conditions and informatives.
- 109 KCC Lead Flood Authority - No objection subject to conditions in relation to SuDs.
- 110 Kent County Council Economic Development - “The County Council has assessed the implications of this proposal in terms of the delivery of its community services and is of the opinion that it will have an additional impact on the delivery of its services, which will require mitigation either through the direct provision of infrastructure or the payment of an appropriate financial contribution.”
- 111 SDC Housing Policy - “It is noted the applicant is proposing 340 homes, with a level of affordable housing which is compliant with Core Strategy policy SP3 (40% - 136 homes). A policy compliant tenure split is also proposed - 65% Affordable/Social Rent (88 homes) and 35% intermediate housing (48 homes). This is welcomed.
- 112 As an outline application, we understand the actual mix of unit sizes applying to the affordable housing, their location within the development and the building types to be used, will be dealt with at the Reserved Matters stage. Nonetheless, we would seek the majority of homes provided for Affordable/Social Rent to comprise 1 and 2 bedroom homes, as this will best assist the District Council in meeting its statutory housing duties and addressing the needs of the Housing Register. Four bedroom homes will only be accepted as Social Rent, owing to affordability constraints, i.e. the

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household benefit caps applying. A mix of affordable tenures will not be accepted in a single block of flats, i.e. blocks need to be either 100% for Affordable/Social Rent or 100% for Intermediate Housing. The Affordable Housing Supplementary Planning Document 2011 should be adhered to, including the clustering of affordable housing throughout the development and for the affordable housing to be indistinguishable from market housing. The provision of "poor doors" and any restriction of access to amenities for affordable housing occupiers, will not be accepted. The S106 agreement should include a requirement specifying that the exact details applying to affordable housing provision, will be subject to agreement by the Chief Officer - Places & People.

- 113 Subject to further discussion with Edenbridge Town Council and the extent of housing need identified in the local Edenbridge needs survey scheduled for September 2021, we may seek to negotiate a local lettings plan which will apply to a number of the affordable homes. It is expected the affordable housing will be delivered by a preferred Provider - see the District Council's website for the current list of partners. The Provider's active input should be sought at the earliest possible stage of the planning process.
- 114 It is expected the affordable housing will be secured through use of the District Council's template 5106 agreement, which is available on the website.
- 115 The application has, in our view, a number of important omissions that we wish to highlight here. We note Planning Policy colleagues have already highlighted these in their submission, and we are therefore largely mirroring their commentary.
- 116 The Strategic Housing Market Assessment (2015) and the Local Housing Needs Study (2017) confirm the current extent and projected increase of the District's ageing population and highlight not only the ever-increasing need for housing suitable for older people, but also the need for homes for life and homes that have the ability to adapt to people's changing needs. This is relevant to both market and affordable housing. There is therefore a District-wide requirement (and direction of travel in policy) to increase the proportion of housing suitable for older people, regardless of the status of the emerging Local Plan. Policy H1 states:

"New housing development specifically designed for older people, including specialist retirement accommodation and registered care homes (particularly dementia-specialist) both market and affordable, will be supported where they are in sustainable locations close to services, facilities and transport links. "

"All new build housing development will be expected to meet the optional technical standard M4(2) for accessible and adaptable dwellings, as set out in the Building Regulations, in order to provide homes for life. On new build housing developments of 20 units or more, at least 5% will be expected to

meet the optional technical standard M4(3) for wheelchair user dwellings, to support people with physical disabilities. These units should be provided as affordable housing."

- 117 Given that the application site is located close to local services, facilities and transport links, it offers a key opportunity to provide much-needed older persons housing. However, it is noted that the masterplan includes a very small number of homes suitable for older people that would meet the optional technical standard M4(2) for accessible and adaptable dwellings, with the vast majority of homes only meeting M4(1). Neither does the masterplan include any specialist retirement housing. We are therefore disappointed that the applicant has not taken the opportunity to meet, or even contribute towards, meeting the specific housing needs of the District."
- 118 SDC Environmental Health Officer- No objection subject to conditions.
- 119 SDC Direct Services - Have some concerns with elements of the scheme in relation to access to some of the flatted development
- 120 SDC Tree Officer - No objection raised, recommend imposition of tree protection conditions where trees are being retained.
- 121 Kent Fire and Rescue - No objection
- 122 Kent Police - Recommend that the development should conform to secure by design initiative.
- 123 Hever Parish Council (adjacent Parish Council)- objects for the following reasons
- Modelling of traffic flows are based on old data and we do not believe that just 11.7% predicted increased flow of traffic to travel towards Four Elms is an accurate figure, noting the pull factors of schools to the East of the district.
 - We would ask that the proposers extend the scope of their traffic modelling beyond the traffic lights by the railway bridge, all the way to Four Elms crossroads (crossroads of B roads) which has significant challenges of its own.
 - Ingress and egress to the site and Skinners Lane inadequate
 - Need investigation by KCC and environmental health with an explanation of how the sewage capacity/storm tanks will deal with this proposal to prevent greater than current sewage discharge into the river.
 - We support the construction of a secondary school

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- Will be interested to see further details of the proportions of affordable housing units and sizing relative to open market housing.

Representations

124 2 letters of support received

125 7 letters of neither supporting or objecting received

126 60 letters of objection received, objecting on the following grounds:

- Overdevelopment;
- Increased traffic generation;
- Greenfield site;
- Loss of trees;
- Loss of open space;
- Strain on existing infrastructure;
- Impact upon air quality;
- Highway safety issues;
- Urban sprawl;
- Impact upon ecology/wildlife;
- Increase in flood risk;
- Inappropriate development in the Green Belt;
- Increase light pollution;
- De-value properties;
- Increase in noise;
- Lack of exceptional circumstances;
- Full rail network capacity;
- Increase in crime;
- Increase in parking demand;
- Overlooking/loss of privacy to Town Station Cottages;
- Inadequate water infrastructure;
- Inappropriate scale and density of development;
- Edenbridge at saturation point;
- Lack of evidence for school;
- Application is premature;
- Sets a precedent;
- Could impact upon the setting of High Weald AONB;
- Conflict with existing S106 agreements to retain land (part of) for open space

Chief Planning Officer's appraisal

127 This part of the report contains the Officer's assessment of the application. The main considerations, which are considered in turn below, relate to the following:

- Policy context

- Principle of the development including proposed land uses;
- Housing mix, density and affordable housing;
- Green Belt implications;
- Visual and landscape impacts;
- Transport and highways implications;
- Biodiversity;
- Residential Amenity;
- Air Quality;
- Flooding and Drainage;
- Infrastructure;
- Conclusions and Planning Balance.

Policy context

- 128 The site had been allocated in once draft emerging Local Plan as part of a group of mixed use allocations (ST-33 and ST-34) on land south of Four Elms Road and land east of Bray Road, Edenbridge. The draft allocation include proposals for: a new secondary school and playing fields; up to 340 residential dwellings; and a medical hub (ST-34) and forms part of a wider 28ha site, to which the medical centre has been granted planning permission under reference 19/01682/FUL. It is understood that works for the medical centre are to start possibly early next year, due delays as the result of the pandemic and the tendering process regime due to changes in costs.
- 129 The site had been allocated for residential and social and community infrastructure. This is because there is required for the District to provide additional housing to meet an identified need which had support of the Council's officers and members. Nevertheless it is relevant to consider the evidence base which contributed to the decision to include those changes and the extent to which the proposal would accord with the Council's objectives or otherwise.
- 130 A Green Belt Assessment as part of the evidence base of the emerging Local Plan (SDC Green Belt Assessment January 2017) It was realised that due to the limited amount of available brownfield land within the District, the Council will need to release several Green Belt sites to meet the identified demand for housing, employment, infrastructure and community uses in the plan period.
- 131 This site was assessed within the Green Belt Assessment as part of parcel 18. The Application Site and its adjacent western and eastern boundaries were specifically sub-divided and assessed as parcel RA-3 within the wider parcel 18. Parcel RA-3 is adjacent Bray Road and the Edenbridge settlement boundary, in the western part of Green Belt parcel 18.
- 132 The Green Belt Assessment identifies the wider 87ha parcel 18 as performing strongly against the NPPF purposes. However, the report

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identifies that there is scope for sub-division; Parcel RA-3 may score weakly and could be considered further.

- 133 The RA-3 area already has an urban character through the encroachment of built development in the Green Belt. This comprises the Eden Centre and 40 dwellings on Bray Road. The Green Belt Assessment recommended that there is scope for parcel RA-3 (the site) to be considered further, for removal from the Green Belt. This judgement has informed the emerging Local Plan process which at the draft submission stage includes this parcel of land (RA-3) along with land extending further south and east for allocation as a mixed use site comprising dwellings, education and health infrastructure.
- 134 This has informed the emerging Local Plan as this site is considered a suitable location for mixed use development and that the Green Belt weakly performs, and is promoted as such in the emerging Local Plan. The allocated site (ST-33) are under the ownership of in part Kent County Council and Cooper Estates. The landowners have agreed to a 'Statement of Common Ground which sets out how the two ownerships are working together in a partnership to deliver the wider masterplan, and that the site is available and deliverable. These arrangements ensure that the aims and vision of the masterplan (to deliver housing in conjunction with community infrastructure) remain aligned with the objectives of the proposed strategic site allocations.
- 135 It is not disputed that the site is in a sustainable location adjacent to the built up area of Edenbridge which is defined as a rural service centre. The high street and its many facilities, including the station would be within walking distance for more mobile residents. There are public transport services provision nearby, with access to road and rail services. The site aligns to our Council's development strategy of only releasing green belt sites in exceptional circumstances where adjacent to one of our main settlements.
- 136 It is concluded that the development would not undermine the current proposed local growth in Edenbridge, but contribute to its economic, social well-being and provide a sustainable location for living. It is considered that the land is developable and deliverable. The promotion of the site in once emerging Local Plan is a key indicator as being suited for this type of the development that has been 'plan-led' and the direction of travel the Council was taking in order to meet in part of its housing demands of the District.
- 137 The latest version of the National Planning Policy Framework (NPPF) was issued in July 2021. Like earlier versions it emphasises that the purpose of the planning system is to contribute to the achievement of sustainable development, through 3 over-arching objectives - economic, social and environmental. It makes it plain that planning policies and decisions should play an active role in guiding development towards sustainable solutions,

but should take local circumstances into account, to reflect the character, needs and opportunities of each area.

- 138 To ensure that sustainable development is pursued in a positive way there is a presumption in favour of sustainable development at the heart of the NPPF. Paragraph 11 of the NPPF explains that for decision-taking this means, firstly, approving development proposals that accord with an up-to-date development plan without delay. If there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, then planning permission should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 139 Of particular relevance in this case are those parts of the Framework which deal with Green Belt and housing provision. Section 13 of the Framework is entitled “Protecting the Green Belt”, with paragraph 140 making it clear that once established, Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans. Paragraph 147 reaffirms that inappropriate development is, by definition, harmful to the Green Belt, and should not be approved, except in very special circumstances.
- 140 Paragraph 148 goes on to explain that when considering any planning application, substantial weight should be given to any harm to the Green Belt, and that “very special circumstances” will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 141 With regard to housing, paragraph 60 of the NPPF confirms that it is the Government’s objective to significantly boost the supply of homes. In considering ways to boost supply, paragraph 73 advises that the supply of large numbers of new homes can often be best achieved through planning for larger-scale development, such as new settlements or significant extensions to existing villages and towns, provided they are well-located and designed, and supported by the necessary infrastructure and facilities.
- 142 Paragraph 74 of the NPPF requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of 5 years’ worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than 5 years old. Other relevant paragraphs in the NPPF are referenced, as appropriate, later in this Report.
- 143 The National Planning Practice Guidance (NPPG), initially published in 2014, is also a material consideration in the determination of this application.

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- 144 A key issue on which our local policies are out of date, relates to housing supply.
- There is a need for 714 units per year in Sevenoaks District, calculated using the standard methodology (March 2021);
 - Comparing this to delivery, the latest Housing Delivery Test results (2020) show that 70% of the overall housing need has been delivered over the previous 3 years, and therefore a 20% buffer applies to the 5 year supply calculation;
 - We do not have a 5 year supply (2.6 years as at August 2020);
 - As our housing supply figure is untested, the ‘tilted balance’ may apply in some cases;
 - Given the Housing Delivery Test result falls under 75%, and we cannot demonstrate a 5 year supply, both of these things independently mean that there is a presumption in favour of development subject to the application of paragraph 11(d) of the NPPF (the ‘tilted balance’).
- 145 The presumption in favour of development relates to para 11(d) of the NPPF. It advises that where there are relevant development plan policies, but the most important for determining the application are out of date, planning permission should be granted unless:
- i) Policies in the NPPF that protect areas or assets of particular importance that would be provide a clear reason for refusal, or
 - ii) If granting permission would lead to adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the NPPF policies as a whole.
- Item i) has a footnote in the NPPF, which links this test to land with specific designations, including Green Belt, Areas of Outstanding Natural Beauty and designated heritage assets, only the Green Belt designation applies to this site.
- 146 The previous emerging Local Plan, which proposed to allocate this site for an additional 340 residential units, together with school provision and medical centre to which the latter was permitted by planning permission 19/01682/FUL. That emerging plan is no longer at examination since the Inspector’s final report (2 March 2020) concluded that the Plan is not legally compliant in respect of the Duty to Co-operate and recommended that the Plan is not adopted. The District Council was granted permission to bring a judicial review against the Inspector’s decision, however this was unsuccessful (judgement published 13 November 2020). The Council then lodged an application to appeal against the Judicial Review ruling which was also unsuccessful.

147 Therefore, the previously emerging Local Plan and its policies do not carry any weight and cannot be relied upon. The adopted development plan remains the Core Strategy (2011) and Allocations and Development Management Plan (2015), however some of these policies may be considered out of date, where they are not in accordance with the NPPF.

148 Reviewing the local policies that are relevant to this application, the following key policies are considered out of date in whole or part:

149 **Core Strategy:**

LO1 - Distribution of Development	<i>Partially in date</i> , generally in accordance with the NPPF as supports sustainable development, but does not fully meet need.
LO8 - The Countryside and Rural Economy	<i>Partially in date</i> , generally in accordance with the NPPF as protects GB and conserves and enhances the natural environment. Will be reviewing extent of the Green Belt.
SP1 - Design of New Development and Conservation	<i>In date</i> .
SP2 - Sustainable Development	<i>Partially in date</i> , generally in accordance with the NPPF as supports climate change mitigation and adaptation, however national changes to the Code for Sustainable Homes and BREEAM post date the policy.
SP3 - Provision of Affordable Housing	<i>Out of date</i> - superseded by national policy updates.
SP5 - Housing Size and Type	<i>In date</i>
SP7 - Density of Housing Development	<i>Out of date</i> - does not make efficient use of land (NPPF).
SP8 - Economic Development and Land for Business	<i>Partially in date</i> , generally in accordance with the NPPF as supports economic growth and provides flexibility, however MDS' no longer exist and note recent changes to PD rights / the new E use class.

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SP9 - Infrastructure Provision	<i>In date.</i>
SP10 - Green Infrastructure, Open Space, Sport and Recreation Provision	<i>In date.</i>
SP11 - Biodiversity	<i>Partially in date, generally in accordance with the NPPF as conserves and enhances the natural environment, but precedes national biodiversity net gain requirements.</i>

150 Allocations and development Plan

ADMP Policy	In or out of date?
SC1 - Presumption in Favour of Sustainable Development	Partially in date, thrust of policy is in accordance with the NPPF however the specific wording is no longer consistent as we are now required to specifically consider and apply policies that protect areas or assets of particular importance.
EN1 - Design Principles	In date, linked to SP1 as contributes towards the government aim to provide healthy and safe communities.
EN2 - Amenity Protection	In date, linked to EN7 and T1.
EN4 - Heritage Assets	Partially in date, linked to LO8, but doesn't go as far as the NPPF, which requires us to consider the significance of the heritage asset and the impact of the proposed development on that significance.
EN5 - Landscape	In date, linked to LO8.
EN6 - Outdoor Lighting	In date, in accordance with the NPPF which seeks to limit the light pollution from artificial light on local amenity, intrinsically dark landscapes and

	nature conservation.
EN7 - Noise Pollution	In date, in accordance with the NPPF which seeks to mitigate and reduce potential adverse effects of noise pollution from new development.
H1 - Residential Development Allocations	Partially in date, generally in accordance with the NPPF as supports sustainable development, but does not fully meet need / doesn't make efficient use of land.
H2 - Mixed Use Development Allocations	Partially in date, generally in accordance with the NPPF as supports sustainable development, but does not fully meet need / doesn't make efficient use of land.
H3 - Residential Subdivision	In date, in accordance with the NPPF as meets identified needs and helps to increase supply.
EMP1 - Land for Business	Partially in date, generally in accordance with the NPPF as supports economic growth and provides flexibility, however we are unable to safeguard some business uses given the recent changes to PD rights / the new E use class (excludes B2 and B8), and must make efficient use of land.
GI1 - Green Infrastructure and New Development	In date, in accordance with the NPPF as conserves and enhances the natural environment and seeks to protect and improve biodiversity.
GI2 - Loss of Open Space	In date, in accordance with the NPPF as promotes healthy and safe communities, and consistent with Green Belt policy.
GB5 - Dwellings permitted under Very Special Circumstances or as Rural Exceptions in the Green Belt	In date
GB10 - Green Belt	In date, in accordance with the NPPF

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Boundary	as meets Green Belt purposes.
CF2 - Loss of Neighbourhood Services and Facilities	Partially in date - Due to PD changes we cannot stop any changes within Class E. Policy remains relevant regarding uses that fall within Class F.
T1 - Mitigating Travel Impact	In date, in accordance with the NPPF as mitigates adverse impacts of development.
T2 - Vehicle Parking	In date, in accordance with the NPPF as promotes sustainable transport. NPPF requires the parking to be integral to the design of the scheme.
T3 - Provision of Electrical Vehicle Charging Points	In date, in accordance with the NPPF as supports climate change mitigation and adaptation.

- 151 Accordingly, as there are relevant development plan policies that are out of date, the criteria at para 11(d)(i) of the NPPF need to be considered.
- 152 This report will assess whether the impact on the Green Belt, when assessed against local and national policy, would provide a clear reason(s) for refusal, amongst other matters that need to be taken into account.
- 153 If it is concluded that there is not a clear reason for refusal on these issues, then consideration will be given to para 11(d)(ii) of the NPPF, the ‘tilted balance’. Planning permission should be granted unless granting permission would lead to adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the NPPF policies as a whole. This second part of paragraph 11 (d) only kicks in no harm is identified under part (i).

Principle of development

- 154 As set out in Section 36(6) of the Planning and Compulsory Purchase Act 2004, applications must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. For Sevenoaks, the Development Plan is made up of the Core Strategy (CS) and Allocations and Development Management DPD (ADMP). The Sevenoaks ‘Development in the Green Belt’ Supplementary Planning Document is also relevant. National Planning Policies, such as those contained in the National Planning Policy Framework (NPPF) are material considerations.
- 155 Housing

- 156 This application proposes 340 houses, which is would have been in accordance to the proposed emerging local plan allocation. The houses would make a positive valued contribution to the District's Housing Stock.
- 157 The adopted Sevenoaks Core Strategy and ADMP planned for the delivery of 3,300 homes over the period 2006 to 2026 with the main site allocations being located around the urban areas of the District and on brownfield land.
- 158 Paragraphs 73 - 75 of the NPPF require the Council to identify a five-year supply of deliverable housing sites, including an appropriate buffer. As the result of the Housing Delivery Test for 2020 was 70%, the NPPF considers this as a significant under delivery of housing over the previous 3 years, and requires the application of a 20% buffer in line with para 73c). Furthermore, as the Core Strategy (2011) policies are more than five years old, the standard method figure for housing need must be used in place of adopting housing requirement for calculating the five-year housing supply. As a result of these factors the Council cannot currently demonstrate a five year housing land supply. As acknowledged in the Council's Housing Delivery Test Action Plan, the five-year housing land supply calculation finds 2.6 years of supply of deliverable housing sites including a 20% buffer. Therefore, the lack of five-year housing supply is a significant consideration that the Council will have to balance with this application.
- 159 As the Council cannot demonstrate a five-year housing land supply at this time, it is considered appropriate and welcome that the site accommodates a number of houses to meet the Council's needs, subject to the other policy considerations discussed in turn below.
- 160 The implications of the 'tilted balance' described in paragraph 11 of the NPPF is discussed above, whilst we will consider the balance of the case later on within the report.
- 161 Education
- 162 The Sevenoaks Infrastutcture Delivery Plan sets out the need to provide a new secondary school for the Edenbrdige, which is supported evidence from KCC Education for future demand. The proposals include land that would be safeguarded for a 4-6FE form entry secondary school. The application proposes only the safeguarding of the land. It is intended that, if the school is required, it would be delivered by KCC.
- 163 Despite the delays to the previously emerging Local Plan, the proposals continue to incorporate the land safeguarded for a 4-6FE Secondary School and KCC still remain interested that provision should be made for a new school to benefit the locality. Should it transpire that the KCC Education do not require a Secondary School then the land would become available for other uses. The mechanism to secure this would be included in the S106 agreement, which would be informed by discussions with KCC Education.
- 164 Community Land uses

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- 165 Land for a twin-hall Scout Hut venue for Edenbridge Scout Group is proposed. The Illustrative Masterplan indicates that the Scout Hut would be located to the south-west of the Site, where it would be accessible on foot via the existing bridge over the railway. The Scout Site is approximately 0.4ha, including sufficient outside space and land for associated parking. Land is proposed to be provided upon which the Edenbridge Scout Group would be able to build a new Scout Hut and Scout Group HQ. As indicated on the Illustrative Masterplan, the land is sufficient for a twin-hall single storey building with a minimum dimension of 20m x 25m and a maximum dimension of 30m x 35m. A contribution of £200,000 towards the cost of construction of the Scout Hut building is proposed to be secured through the s106 Agreement.
- 166 A 0.29ha area of land is proposed for additional allotment plots. It is envisaged this would be provided adjacent to the existing allotment site at Forge Croft. The allotment plots would each measure 9m x 6m with an area of land also provided for car parking.
- 167 A new car park for Edenbridge Town Station is proposed. This will provide approximately 36 spaces including drop-off / pick-up facilities. A ramp would be necessary to connect the car park to the existing platform. It is envisaged that the developer will construct the car park, and other associated infrastructure improvements to Edenbridge Town Station would be funded through an s106 contribution. This follows the need set out the Sevenoaks Infrastructure Delivery Plan for *“Improvements to sustainable transport accessibility - walking, cycling, buses and trains”*
- 168 Open spaces and green infrastructure
- 169 The Illustrative Masterplan shows how existing trees and landscape features within the site can be retained and enhanced, with around 8ha of natural or amenity greenspace proposed to serve the development.
- 170 The proposal will retain the existing Bray Road / Eden Centre ecological area, creating a linear greenway through the site connecting with new and enhanced areas of green space. The scheme includes creation of recreational areas including the provision of a Local Equipped Area of Play ('LEAP') and 6no. Local Areas of Play ('LAP') throughout the residential areas. These facilities will be secured by the S106 and would also include clauses relating to the future management of the open spaces and play spaces across the site, which could include field spaces or multi use games areas.
- 171 The proposed open space will also provide for structural planting and Sustainable Urban Drainage Systems.
- 172 Biodiversity enhancements on Site will include areas of enhanced grassland; new ponds, swales, and wetlands; enhanced woodland and new areas of planting; and habitat creation including new hedgerow and meadows.
- 173 Loss of open space

- 174 Policy GI2 of the ADMP states that proposals for built development on redundant school playing fields in the Green Belt, other than for essential facilities for outside sport and recreation will be refused.
- 175 This site forms part of, or constitutes a playing field as defined in Article 16(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2010 if the land has been used as a playing field within the last five years, and the field encompasses at least one playing pitch of 0.2ha or more, or that it is on land allocated for the use as a playing field in a development plan or in proposals or such a plan for its alteration or replacement.
- 176 The proposed development will be constructed on the former school buildings. Irrespective of this, Eden Valley School has been demolished for many years and part of the site is now occupied by residential dwellings. Despite some of the land under the 2012 planning permission was left by planning condition as open for community use, there are no existing or maintained playing pitches and the land is not allocated as a playing field in any adopted or emerging planning policy documents. As such, the proposed development would not conflict with Policy GI2 of the ADMP. The Proposed Development does not conflict with Policy GI2.
- 177 Notwithstanding the above, part of the Eden Valley School site has now returned to amenity land/open space/scrubland. Condition 12 of planning permission reference 12/00362/CONVAR identified land to be retained and open for the community use at all time for recreation purposes. This proposal proposes development on a portion of identified land that has been protected by condition 12 of the 2012 permission.
- 178 Consideration has been given to the extant s106 agreement and planning conditions of the former 2012 permission. The application drawings showed an area of land edged blue. This was land which did form part of the school playing fields was also under the control of Kent County Council at the time of the applications but was outside of the redline boundary of the application and falls outside of the defined site of the s106 agreement. However, as previously noted, the 'blue' land where subject to a number of planning conditions on the various permissions relating to its use and maintenance as recreational land.
- 179 Condition 12 stated that the within the blue line shall be retained and open for the community to use at all times by Kent County Council for recreation Purposes. Condition 32 related part of the site to be used as nature area and managed in accordance with previously approved details. Condition 36 relates to the long-term maintenance of the land contained in the blue line boundary of the site (with the exception of the Managed Nature Area) which is to be retained for community use for recreation purposes in perpetuity in accordance with previously approved details (11/00741/DETAIL). Condition 39 stated that any events held at the Community Centre (Eden Centre), the overflow car parking spaces (land within this site) shall be made available to those members of the public attending the event. Although there are

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conditions attached to the 2013 permission, it is clearly established in law that it is possible for any number of planning permissions to exist in relation to an area of land and the fact that a later permission may be incompatible with a previous permission does not render it invalid or unlawful provided that it has been granted lawfully.

- 180 If the Council were to be minded to approve this application, there could be possible conflict with breach of conditions of no. 12 and 39 of the 2012 planning permission. However, this land has been used for open recreation purposes. That said, if this application were to be successful, it would overwrite the conditions of the previous permissions as it would a start of a new 'planning chapter' on the land affected. It is also considered that that a significant proportion of the land will remain as informal open space/available for public recreation and also that further provision of other open space and community and recreational facilities within the proposed development. This will mitigate the loss of part of the previously identified 'Blue Land' for the housing and estate roads.
- 181 In terms of the current use of the site as amenity land/open space, the Open Spaces Study (2017-18) indicates good coverage of amenity greenspace within this part of Edenbridge and a district-wide oversupply in this type of open space. In addition, this site has not been identified in the Council's Open Space Study (2017-18) evidence base and there is good coverage of existing amenity greenspace in this area of Edenbridge. The proposed scheme would incorporate elements of open space and would link with wider Green Infrastructure proposals beyond the site. It is noted that the scheme is not strictly in accordance with Policy GI2 (loss of open space), but the amenity space is surplus to requirements and the proposed scheme does offer green open spaces elsewhere within the development.
- 182 In summary, it has been demonstrated both sequentially and the need for the development and the lack of alternative sites has led to this scheme being advanced. There is an identified need for the provision of housing/community facilities would secure long-term provision of these facilities and the ability to cope with future demand/projected population forecasts. It can also be demonstrated that this site can in part retain and deliver further open spaces within the site as a whole together with play spaces which will benefit the future occupants of the site as well as the wider community. Whilst there would be conflict with conditions of previous planning permissions, the ability to allow further development would not be prejudiced by any future permission and the issue of any new permission is to be implemented alongside and in conjunction with the schemes authorised under the 2012 permission and the 2019 planning permission for the medical centre. Furthermore, the changes to the open space area, it is considered that the three developments are considered compatible and complimentary and are not considered alternatives to each other.

183 Prematurity

184 There can be no argument that the application is premature to either the emerging plan as previously mentioned. The NPPF provides at paragraph 49 that prematurity will be unlikely to provide a reason for refusal other than in the limited circumstances where both of two circumstances apply:

- a) That the development is so substantial or its cumulative effects would be so significant that to grant permission would predetermine decisions about the scale, location or phasing of new development that are central to an emerging plan; and
- b) The emerging plan is at an advanced stage but is not yet formally part of the development plan.

185 Neither of these conditions are met. The proposal relates to one site on the edge of an existing settlement and seeks planning permission for 46% of houses for the District's one year housing requirement. Neither a review of the emerging Local Plan nor its allocations can be said to be at an advanced stage and no draft policies have been examined or reported upon.

Housing Density, Mix and Affordable Housing

186 Housing Density

187 The NPPF states at paragraph 124 that planning decisions should support decisions that make efficient use of the land, taking into account: a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it; b) local market conditions and viability; c) the availability and capacity of infrastructure and services- both existing and proposed, as well as their potential for future improvement and the scope to promote sustainable travel modes that limit future car use; d) the desirability of maintaining an area's prevailing character and setting (including residential gardens) or of promoting regeneration and change, and; e) the importance of securing well-designed, attractive and healthy places.

188 Policy SP7 of the Core Strategy refers to housing densities in the District, in summary, seeks a density of 30 dwellings per hectare ("dph") in Sevenoaks and Swanley town centres; 40 dph in urban areas of Sevenoaks, Swanley and Edenbridge, and 30 dph in other settlements in the District. SP7 also reiterates that developments should make efficient use of land for housing, having regard to the character and location of the area.

189 Subject to consideration of the implications of the density on issues such as character, transport, the proposed density is considered acceptable in this instance and compliant with the aims of the NPPF and SP7 of the Core Strategy.

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190 Housing Mix

191 Policy SP5 of the Core Strategy requires that new development contributes a mix of housing types, taking into account evidence the existing pattern of housing in the area, evidence of local need and site specific factors. At this time, the most up to date evidence of need for housing mix is described within the Strategic Housing Market Assessment (SHMA, 2015).

192 At this time, the proposed housing lies within the outline part of the application, and therefore the exact mix of housing sizes has not been established. This would be dealt with through any subsequent Reserved Matters applications.

193 The applicant in their Planning Statement has acknowledged the District's housing needs and that the development has the ability to contribute a mix of dwellings to reflect the District's need.

Affordable Housing

194 The Core Strategy states that in the case of developments of more than 15 units, 40% of the total number of units should be affordable. It states that 65% of the affordable housing should be social rented.

195 The Council's Strategic Housing Market Assessment (SHMA) 2015 is the most recent study on housing demand in the District. This identifies a need for 24% of affordable homes to be intermediate and 76% to be social or affordable rent.

196 Policy SP3 of the Core Strategy has been found to be out of date due to more up to date national policy. Paragraph 65 of the NPPF states that where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership (as part of the overall affordable housing contribution of the site).

197 Paragraphs 66 and 67 of the NPPF refer to housing requirement figures and how this issue may be considered in areas where strategic policies for housing are out of date. In these circumstances, it states that considerations should take into account factors such as the latest evidence of local housing need, populations and the most recently available planning strategy for the area.

198 The 340 homes scheme has been made compliant, with a level of affordable housing expected under Policy SP3 of the Core Strategy. The scheme proposes a total of 136 homes to be available for affordable housing purposes with tenure split of 65% Affordable/Social Rent (88 homes) and 35% intermediate housing (48 homes). This supported by SDC Housing Officer.

- 199 Breaking this down further, the split of homes to be made available for affordable housing - 43no. x 1 bedroom, 46no. x 2 bedrooms, 37no. x 3 bedrooms and 10no. x 4 bedrooms. As highlighted by SDC Planning Policy team, this is a 'good' split in terms of meeting current housing needs and is supported.
- 200 The affordable housing on site will be secured by s106 agreement.

Green Belt implications

- 201 The National Planning Policy Framework and in particular paragraph 137 makes it clear that the Government attaches great importance to the Green Belt and the protection of its essential characteristics. It was common ground between the parties that the proposals represent inappropriate development as identified by the Framework. In terms of the five purposes of the Green Belt identified at
- 202 Paragraph 138 of the Framework, it was also common ground that the key tests in the context of these appeals are the effect on openness, encroachment and urban regeneration.
- 203 The application site comprises an open agricultural fields with a number of public footpaths which traverse the site. It is entirely free from built development. This proposal would introduce built development to the site in the form of 340 dwellings, a school with associated access roads and pavements, residential gardens, open space and driveways. The precise layout and form of the development would be determined at reserved matters stage. Even taking into account the potential for boundary treatment and landscaping which could include open green space and play space and could be integral to the layout of the residential development proposed, this would have the effect of a considerable reduction in the openness of the site. This, harm, in addition to the harm by inappropriateness, carries substantial weight against the proposals.
- 204 Given the above, the proposal is therefore inappropriate development within the Green Belt and is significantly harmful to the Green Belt.
- 205 Paragraph 149 of the NPPF sets out the uses for which the construction of new buildings in the Green Belt are not considered inappropriate, but the application proposal does not sit within any of these categories. This means that the proposed development would be inappropriate development in the Green Belt. In addition, by seeking to develop on what are currently open fields, the proposed development would also clearly have an adverse impact on the openness of the Green Belt.
- 206 With regard to development proposals affecting the Green Belt, paragraph 147 carries forward earlier national guidance, that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight is to be given to any harm to the Green Belt, with "very special circumstances" not

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existing unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. Therefore, it needs to be robustly demonstrated by the applicant that the proposed residential development to include affordable housing, the school, and other development all outweigh harm to the Green Belt and any other harm in a very special circumstances case (VSC) case. Their VSC case is considered in more detail below.

Impact upon the character and appearance of the area

- 207 The site is not within a valued national or local landscape designation, and the closest landscape designation is some 2.5km away. Therefore, at a local level, there are no local landscape designations which apply.
- 208 The site relates closely to the existing settlement of Edenbridge. The Site is not remote countryside and its character is influenced by its proximity to adjacent residential development at Four Elms Road, Bray Road, and the Eden Centre.
- 209 Existing trees and hedgerow along the southeast side of Four Elms Road are in places limited in height and density of planting, including some gaps along the road frontage. There are some obvious visual linkages between the existing built-up area, across Four Elms Road and to the application site. To the east and south of the Site there are substantial and dense tree belts which assist in screening the site from wider and longer distance views. This feature serves essentially to separate the site from the more open countryside beyond.
- 210 This Application is supported by a Landscape and Visual Impact Assessment (LVIA). The LVIA concludes that the development would have a "very slight adverse effect" on the overall landscape character of the area. This is primarily as a result of the permanent change of land use from an agricultural fields to a development site comprising residential and community uses. Given that the site is located immediately adjacent to an existing built up urban area, it is concluded that the effect of this change would be minimal and localised.
- 211 Visual impacts from the public footpaths crossing the site itself would be "significant" changing the experience of the user. However, these paths extend from and towards the existing urban area, so the user already experiences the built up area within view. The overall visual effects of the development are considered to be limited as the proposal would have minimal effect on views from the majority of the surrounding landscape.
- 212 It is considered that the scheme as a whole seeks to respond to the local context by retaining existing vegetation where possible and proposes new tree and hedge planting to assist in integrating and screening the development in the longer term.

- 213 Whilst inevitably there will be change to the local character of the area as a result of development on this site, it is considered that the development would integrate well with the existing townscape character and would not harm the character of the wider landscape. It would be seen against the backdrop of the existing urban area of Edenbridge and the local landscape has capacity to accommodate the proposed development whilst avoiding any significant adverse residual effects upon its character and value.

Transport and Highways Implications

- 214 The NPPF states within paragraph 111 that “Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

- 215 Paragraph 110 sets out criteria for assessing sites, including specific allocations for development. Para 110(d) states that decisions should ensure that:

“Any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be effectively mitigated to an acceptable degree.”

- 216 Location/Accessibility

- 217 The southern boundary of the site is within a 0.6km (7 minute) walking distance of Edenbridge High Street, which offers a wide range of services for the day to day needs of residents. Other facilities close to the Site include the Eden Centre, which accommodates community facilities including Edenbridge Library. There are also employment opportunities provided at the neighbouring business parks at Fircroft Way, Commerce Way and Enterprise Way, as well as further retail units provided on Fircroft Way including a Lidl store and a convenience store.

- 218 Edenbridge Town Railway Station is located to the immediate south-west of the site.

- 219 Edenbridge Railway Station, located to the north of the town, is within a 1km (12 minute) walking distance of the Site. The two railway stations provide a good level of direct connection into London and other nearby Towns.

- 220 The closest bus stops to the site are located on Four Elms Road, adjacent to Fircroft Way. The local bus services provide connection to several destinations, including a good level of service to Tunbridge Wells, with 3 services per hour provided during the peak periods.

- 221 Site Access

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- 222 The current application seeks to make a new primary access is proposed from Four Elms Road, with a secondary access proposed through the recently approved NHS site (planning permission reference: SE/19/01682/FUL). An amendment to the approved layout of the NHS Medical Centre Site would be necessary and is covered by Condition 23 of 19/01682/FUL.
- 223 In addition, to the above, an emergency access is proposed to the south west of the site connecting to an existing road bridge. This access would be used for emergency vehicles and the existing/proposed allotments.
- 224 KCC Highways have confirmed that for a development of this scale, two access points are required. The Highways Authority have stated that they would recommend refusal if only one access were proposed for the site as this has safety implications and provides highway resilience if an incident were to take place on the main access.
- 225 A suite of improvements are recommended to the Four Elms access. These are supported by the Highways Authority and the applicant proposes the following:
- Priority controlled T-Junction on Four Elms Road;
 - Re-location of existing bus stops on Four Elms Road;
 - 2m wide footways to adjoin existing footpaths;
 - Proposed dropped kerbs;
 - Use of tactile paving on adjacent footpaths to Fircroft Way junction;
 - Four Elms Road is subject to a 30mph limit and the applicant proposes to extend the 30mph limit further east in order that it encompasses the new site access. This would require a Traffic Regulation Order which would be pursued by the applicant.
- 226 The above works, with the exception of any visibility splays, would be secured through a Section 278 Agreement, under the Highways Act 1980. This is an agreement with the Highways Authority to carry out the works on the public highway. The Section 106 agreement would require that the developer enter into such a S278 agreement.
- 227 Further to the above, the applicant has also demonstrated the feasibility of both expanding the secondary school from 4FE to 6FE and its impacts upon the road network and for the provision of a zebra crossing on Four Elms Road as an result.
- 228 It needs to be remembered that this is an outline planning application and the current masterplan as submitted is just indicative in terms of the internal layout. However, it is considered that the current layout demonstrates how either a 4FE or 6FE school can be accommodated and that the local transport network would be able to accommodate either a 4FE or 6FE school without there being a severe impact.

- 229 Similarly, although subject to the school coming forward, it has been demonstrated how a zebra crossing would be fully compliant with the design standards set out within Chapter 6 of the Traffic Signs Manual can be delivered on Four Elms Road and the developer is willing to commit to this.
- 230 Subject to the above measures and mitigations being secured by conditions and the Section 106 agreement, the proposed use of the primary and secondary accesses, is considered acceptable and would preserve highway safety, compliant with the aims of the NPPF and Policy EN1 of the ADMP.
- 231 Trip Generation and Distribution
- 232 Arising from the above assessments, the applicant has prepared highway impacts assessments, which account for a period to 2025 in line with the previously emerging Sevenoaks Local Plan period.
- 233 The results for the assessment indicate all arms would operate within capacity in 2025 with full development scenario and would not cause an adverse impact to the road network. As such, KCC Highways do not object on this ground. Taking this into account, it can be concluded that the impact, in terms of the NPPF test, is not therefore severe.
- 234 Pedestrian links
- 235 In terms of pedestrian movements, the site is located in a sustainable location being located within walking distance of two stations and the Town Centre. New footways and cycleways are proposed and these can be included in a S278 Agreement to be delivered by the developer.
- 236 Pedestrian access to the eastern platform at Edenbridge Town station and improvements to the Public Right of Way (PRoW) east to west across the site from the Railway Cottages to Skinners Lane to allow all-weather use are also welcomed. The applicant has agreed to contribute £40k for improvements to the sections of Public Right of Way of SR603 and SR604 adjoining the site and linking to the land.
- 237 A new footway/cycleway from station is proposed and this and the PRoW links to and from it should be a minimum of 3m wide.
- 238 A pedestrian/cycle route is also available from Forge Croft which will also be used as an emergency access.
- 239 In terms of the PRoW comments, they have suggested that a diversion order of the PRoW may be required. However, as this is facilitated by another legislative provision and as that this application is outline only. So a precautionary condition can be used and allows the condition to be discharged if a Diversion Order would not be necessary.

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240 Travel Plan

241 A travel plan for the site would be secured by the S106 for both the new houses and educational uses. This is required to reduce the dependency of future users of the site on the private car. The Highways Authority have commented that this must include objectives and modal split targets, a programme of implementation and provision for monitoring, review and improvement. It should include: realistic alternatives to the private car, including the demand responsive transport service and diversion of bus route into the site; parking management strategy; cycle parking; appointment of a Travel Plan Coordinator and monitoring fees. Consideration of car clubs and electric bike hire should be included.

242 Construction Impacts

243 It is acknowledged that the construction process would impact on the local road network. At the request of the Highways Authority a Construction Management Plan is recommended to be secured by condition relating to each phase of demolition and construction. This should include details including routing of vehicles to the site, employee parking, delivery vehicle unloading and turning, wheel washing and any requirements for traffic management.

244 Waste Collection

245 Sevenoaks Council Direct Services team have raised concerns for the ability of the internal access roads to accommodate HGV waste vehicles. As these elements are only submitted in outline at this stage, this matter would be addressed at the reserved matters stage when the details of the site layout and appearance are submitted.

246 Conclusion on transport and highway implications.

247 The impact on highway safety would not be severe as a result of this proposal and any significant impacts could be mitigated to an acceptable degree. The proposal would therefore comply with local and national policy.

Biodiversity

248 At a local level policy SP11 of the Core Strategy seeks to ensure that the biodiversity of the district will be conserved and opportunities sought for enhancement to ensure no net loss of biodiversity. The NPPF (paragraph 174) also states that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing sites of biodiversity value. Paragraph 174(d) states that decisions should minimise impacts on and provide net gains for biodiversity.

249 Ecological surveys have been carried out and identified the following:

- Seven species of bats utilising the site for foraging/commuting.
 - Three species of reptile, including an 'exceptional population' of slow worms.
 - Great Crested Newt presence in two ponds on-site.
 - An outlier badger sett.
 - Breeding birds (with some species of conservation concern).
 - Degradation to key ecological features, such as ponds and woodland.
- 250 KCC Ecology have advised that proposed mitigation measures are finalised and submitted for approval before any works commencing as the exact design details are not known at this stage and, therefore, a detailed mitigation strategy will need to be produced and implemented. This can be secured by condition.
- 251 Further to the above, as with mitigation measures at the construction stage, a detailed 'Landscape, Ecology, Management and Monitoring Plan' (LEMMP) will need to be produced once the final design is confirmed and submitted with the reserved matters application(s) to ensure biodiversity net-gain can be delivered to which an increase of 10% of biodiversity net gain is expected.
- 252 Conditions are therefore recommended to ensure that with each Reserved Matters application, a detailed Landscape and Ecology Management and Monitoring Plan (LEMMP) should be provided.
- 253 Comments from the Kent Wildlife Trust have been considered and that the development can now deliver the appropriate expected 10% biodiversity net gain.
- 254 Lighting
- 255 Sensitive external lighting would be required on the site to ensure that it does not cause detriment to diversity including commuting and foraging bats and badgers. Indicative details of a lighting strategy have been submitted and will be used as a framework for the submission of further lighting details.

Residential Amenity

- 256 The impact on individual neighbouring properties, in terms of privacy, natural light and visual intrusion, would be assessed in full at the time of the reserved matters applications when the exact locations of the new built forms would be presented. The detailed part of the current application, for which we know the locations and sizes of the built forms, is located centrally on the site and would have a minimal impact on any existing dwellings neighbouring the site.

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- 257 SDC Environmental Health have reviewed the submitted documentation including acoustic/vibration assessment, and has raised no objection to the development on this ground.
- 258 Issues relating to the quality of the proposed accommodation and the amenities of future residents would also be considered further at Reserved Matters stage. The site is considered capable of delivering a good standard of accommodation for its future residents.
- 259 Disturbance may occur to a degree during the construction process, however this would be for a limited period. A condition is recommended to secure a Construction Environmental Management Plan for each phase which would include measures to preserve both highway safety and residential amenity, in order to comply with policies EN2 and EN7 of the ADMP.

Archaeology

- 260 The Archaeology Officer at KCC considers that although there are some heritage concerns in terms of the level of information submitted in regard to archaeology on the wider site, the necessary further assessments can be undertaken prior to the works on the phases of the development. A condition has been recommended to ensure appropriate consideration of the archaeological landscape and its protection during each phase of development, in accordance with policy EN4 of the ADMP.

Air Quality

- 261 It is accepted that the development would have a negligible impact on local air quality and that the effect of the development would not be significant and that no further mitigation measures are required in order to make the site suitable for the proposed uses. As Environmental Health agree with these conclusions in the application documents, it is not considered reasonable that further mitigation be secured in this instance. The Environmental Health Officer has questioned whether the development would include electrical vehicle charging points, these would be secured by condition and details submitted at a later stage.

Flooding and Drainage

- 262 The Application Site is located in Flood Zones 1, 2 and 3 according to the Environment Agency's Flood Map for planning. Hydraulic flood modelling has been undertaken in support of this Application, and the findings are set out in the submitted Flood Risk Assessment. The modelling takes account of climate change in line with best practice.
- 263 Whilst the whole site contains areas which fall within flood zones 2 and 3, the Illustrative Masterplan proposes to locate the built development entirely within Flood Zone 1, which follows the NPPF's sequential approach to locating vulnerable development to the areas at the lowest risk of flooding.

Notwithstanding this, the Sequential Test had been undertaken by the Council through the preparation of the emerging Local Plan. It is therefore not necessary to submit a sequential test with this application.

- 264 Kent County Council, as the Lead Local Flood Authority (“the LLFA”) and the Environment Agency have both been consulted on the proposal and both the Environment Agency and LLFA raise no objections.
- 265 In light of the intended phasing and timescales for the development, a drainage strategy be submitted for each phase, to be compliant with the site wide strategic drainage strategy, so that it can be confirmed that each catchment operated appropriately.
- 266 The Environment Agency have also requested conditions relating to the mitigation measures as informed by the Flood Risk Assessment to ensure to ensure that the development would not be at unacceptable risk from, or be adversely affected by flooding.

Other Issues

- 267 Utilities
- 268 A utilities assessment has been submitted with the application. It identifies that the development would use the existing foul sewerage network as it has sufficient capacity to service this development and no off-site work is necessary. In terms of electricity, it will be necessary to divert the existing high voltage overhead lines crossing the site as part of the development. Two substations will be required to serve the development. There is a gas and water supply in the area with sufficient capacity to supply the development. Further to this, there is broadband available in the area, a Fibre to the Premise connection will be installed and this can be secured by condition.
- 269 Odour
- 270 Odour Impact Assessment has been undertaken by Isopleth Ltd given the proximity of the site to the Southern Water Wastewater Treatment Works (WwTW). The Odour Assessment recommends that dwellings are located beyond the 5-year average 3.0 ouE/m³ isopleth. The Illustrative Masterplan demonstrates that this can be achieved as reflected by the Site Setting and Odour Impact Analysis.
- 271 The Odour Assessment notes that on occasion it is likely that odour could be detected on site, but this is unlikely to be at a level whereby it would give rise to a statutory nuisance. As such, it is considered that odour would not pose a constraint to development. The Environmental Health Officer has raised no objection.

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- 272 Notwithstanding this, meetings have been held between Southern Water and the consultant team to discuss the odour modelling and the options for odour management. In January 2020, an application under was submitted to Southern Water.
- 273 To reduce the impact of odour across the area, a number of solutions could be implemented to avoid odour at source. Such solutions proposed through the s185 application of the Water Industry Act include installing a cover over the raw sludge holding tank and open storage skips. An odour control unit would be necessary to prevent the build-up of gases.
- 274 Other matters raised by representations by third parties have been considered as part of this determination of this application and where appropriate have been addressed in the preceding paragraphs. Issues relating to setting a precedent and de-valuing existing properties within the locality are not planning issues that justify a reason to raise an objection to the development.

Community Infrastructure Levy (CIL)

- 275 The development would be liable for CIL and the extent of CIL liability would be determined at the Reserved Matters stage, once the liable floorspace were established. This is as required by the CIL regulations. CIL contributions are intended to fund infrastructure to help support development. Infrastructure providers would be able to bid for funds in line with the Council's existing CIL spending procedures. As Sevenoaks District Council is a CIL charging authority, it would not be reasonable to secure other financial contributions for infrastructure.

Planning Balance

- 276 In accordance with section 38(6) of the 2004 Act, this application has to be determined in accordance with the development plan, unless material considerations (which include the NPPF), indicate otherwise.
- 277 There is no dispute that the application proposal would be inappropriate development in the Green Belt, nor is there any dispute that the proposal would have an adverse impact on the openness of the Green Belt. Therefore, the tilted balance of paragraph 11(d) of the NPPF is not engaged.
- 288 Instead the balancing of this application, we will be look at paragraphs 147 & 148 of the NPPF, where planning permission should not be granted unless a case of very special circumstances can be demonstrated.
- 289 We are required to “*ensure that substantial weight is given to any harm to the Green Belt.* ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any

other harm resulting from the proposal, is clearly outweighed by other considerations.”

- 290 Therefore we will look in detail for a number of factors that would potential weigh in favour of the scheme as a case of very special circumstances.

Emerging Local Plan

- 291 The application site formed part of a mixed use allocation in the Council Proposed Draft Submission Local Plan, prior to be stopped at the Examination stage. The proposed allocation was to release the site from the green belt for development under a case of exceptional circumstances, due to needing to meet housing demands, but also providing a health centre and safeguarding land for a secondary school. The release of this site was linked to the Council’s development strategy of releasing green belt sites for development where they were adjacent of one of its four main settlements and where they were poorly performing green belts and would provide existing identified infrastructure provision.
- 292 Whilst it is fully acknowledged the Proposed Draft Submission Local Plan holds very limited weight, the principle of only releasing poorly performing green belt sites for housing adjacent to a main settlement in order to provide much needed infrastructure holds some weight.

Five-Year Housing Supply

- 293 It is fully accepted that the Council does not have an up to date Local Plan and does not have an adequate five-year housing supply. Whilst the Council’s has a Housing Delivery Test Action Plan to tackle the under supply of housing, part of that reliance will be adoption of a Local Plan, which will not come forward until 2023. This site has the ability achieve a significant contribution towards the District’s housing requirement with limited impact upon on the Green Belt.
- 294 The Council’s housing situation has been described in previous appeals as “acute” and “chronic”, with the Council only able to demonstrate a current supply of deliverable housing land of less than 2.6 years, very substantial weight to the provision of 340 new houses in the current proposal. Further to this, very substantial weight to the proposed delivery of 40% affordable housing on this site, for reasons set out earlier. Therefore the under provision of housing supply holds substantial weight, albeit it does not outweigh the harm to the green belt on its own.

Biodiversity

- 295 The development would have no adverse impact on matters of ecological or nature conservation interest but would, instead, actually result in a net benefit for biodiversity to which limited weight can be attached.

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Secondary school

- 296 There is a need for additional secondary school spaces in the town in the future, and by facilitating the delivery of a new secondary school, the application proposal would address this future need, and would also satisfy the secondary education demand likely to arise from the development itself. Moreover, no other site has been identified to potentially deliver a new secondary school. This factor should be given significant weight in the proposal's favour.

Medical centre

- 297 In terms of the medical centre provision, even though this was determined under a different planning permission, a significant contribution (in excess of £400k) was made by the landowner (Cooper Estates) to the KCC enable the land associated with the medical centre application to be sold to the National Health Service to facilitate the development. It was originally envisaged for the medical centre to be incorporated with this planning permission, however the NHS wanted to advance the development to ensure funding for the development could be secured. Both the medical centre and this proposal have been designed to link together. Whilst planning permission is already been granted, very limited weight can be attributed to the connections between the two sites.

Highways

- 298 In traffic and transport terms, it is acknowledged that there would be increased traffic on the local highway network, and an increased demand for parking. Having had regard to the proposed contributions towards various junction improvements, and the TRO review, it is concluded on this consideration is that there would be no materially adverse impact on traffic, transport, parking and safety matters. With this fairly neutral conclusion, it is not considered that these points add any weight in support of the proposal.

Accessibility to sustainable transport

- 299 The proposal would seek to significantly improve the accessibility to the Edenbridge Town train station, through providing parking spaces to the northern platforms, which currently has no level access, as it is only accessible via steps down and up via an underpass. The proposal would also contribute one million pounds to Network Rail safe access across an existing level crossing and other improvements for accessibility to the train stations in Edenbridge was identified under the Sevenoaks Infrastructure Delivery Plan and therefore these works and contributions would hold significant weight.

Economic and social benefits

- 300 The proposal would, however, clearly satisfy the economic and social objectives of sustainable development. Some of the matters that make up these objectives, such as the delivery of market and affordable housing have already been accounted for. However, there are other areas of benefit, not specifically included above, such as the detailed economic benefits which would arise in terms of new jobs; a significant amount of “first occupation expenditure” and additional local expenditure, Council Tax payments, and CIL payments. It should be noted that the scheme will provide a dual use scout hall and allotments. These matters add limited weight in support of the application proposal.
- 301 Therefore after balancing all these various factors against the substantial to the harm to the green belt, it is considered that a case of very special circumstances exists in supporting this scheme given in will clearly provide evidenced and required infrastructure to meet the needs of Edenbridge going forward.

Conclusion

- 302 The report above identifies the many benefits that the proposals would bring to the site and to the landscape. While local concerns exist in particularly in terms of highways impacts of the development, it has been found that these impacts can be appropriately mitigated by conditions and planning obligations, which would result in highway and pedestrian safety being preserved, and the development would amount to a less than ‘severe’ impact on the highway in terms of its assessment under NPPF paragraph 111.
- 303 In summary, although substantial weight has to be given to the Green Belt by reason of inappropriate development and the impact on openness, it is considered that that this can be clearly outweighed by the significant and in some regards unique benefits of the application proposal, as detailed above. As such, it is concluded that very special circumstances exist, which would justify this development in the Green Belt.
- 304 It is recommended that the application be approved and planning permission be GRANTED subject to the referral to the Secretary of State, the conditions and legal agreement detailed above

Background papers

Site and block plan

Contact Officer(s):

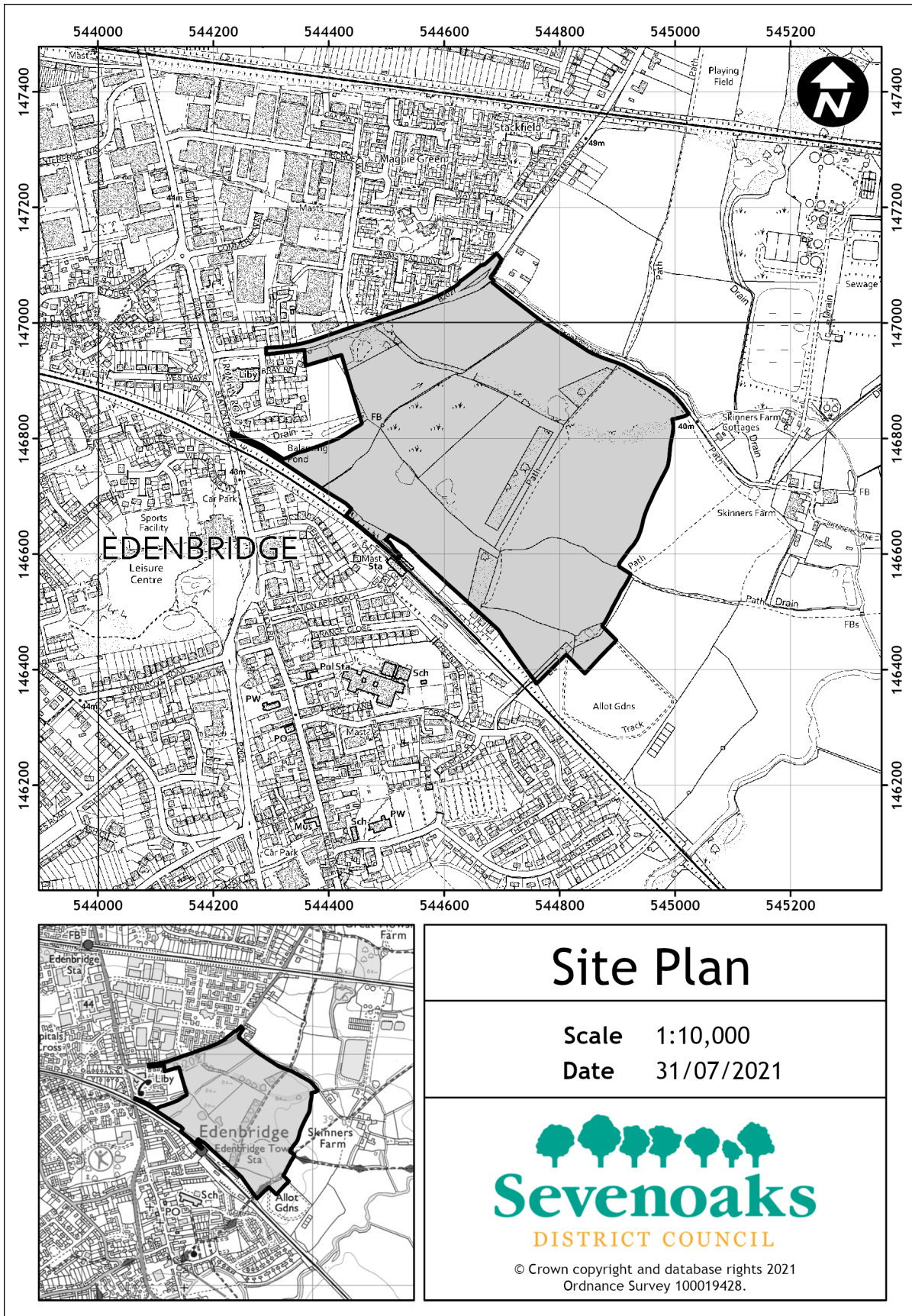
Sean Mitchell: 01732 227000

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Richard Morris
Chief Planning Officer

[Link to application details:](#)

[Link to associated documents:](#)



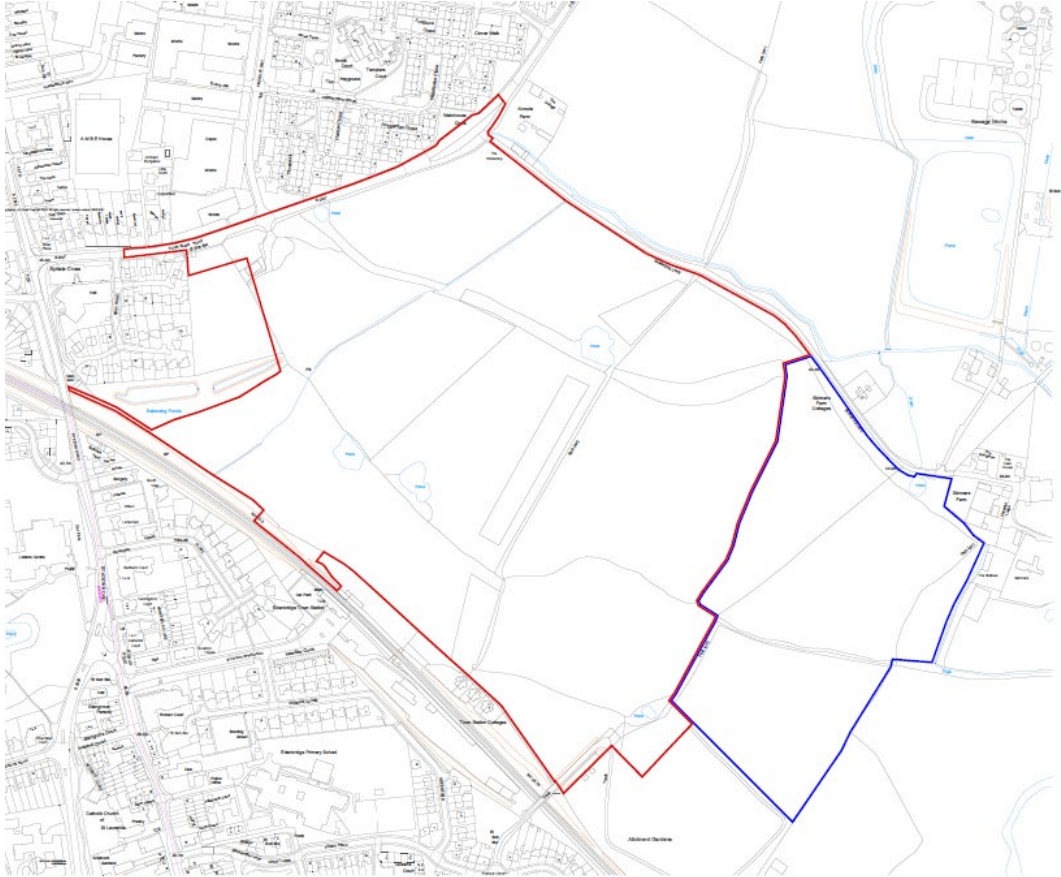
Site Plan

Scale 1:10,000

Date 31/07/2021



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Ordnance Survey 100019428.



DEVELOPMENT CONTROL COMMITTEE

Thursday 30 September 2021

LATE OBSERVATION SHEET

4.1 - 20/02988/OUT - Land North Of Town Station Cottages, Forge Croft, Edenbridge KENT TN8 5LR

Typographical error

Paragraph 201 should read:

“The National Planning Policy Framework and in particular paragraph 137 makes it clear that the Government attaches great importance to the Green Belt and the protection of its essential characteristics.”

Paragraph 202 is deleted.

Recommendation to amend main report

A further six neighbour responses have been received objecting on the following matters -

- Not enough car parking provision for Town Station Cottages;
- Impact upon existing infrastructure of Edenbridge;
- Impact of development on sewage farm;
- Highway safety;
- No very special circumstances exist;
- Breach of existing s106 relating to open space;
- Damage to habitats and wildlife;
- Flooding issues;
- Sets a precedent;
- Extant s106 agreement.

With regard to the car provision at Town Station Cottages, the applicant has agreed to increase the parking provision from 6 to 12 spaces, 2 for each cottage. As such the s106 agreement will be updated to secure this provision.

With all other, these objections are already covered in the report. In regard to the extant s106, this has already been covered in the report in paragraphs 176 - 182 of the report.

Amend Recommendation

To amend the conditions and add five additional conditions requested by Kent Highways.

Amendment to condition 18 to read:

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“Notwithstanding the provision of Class A, Part 4 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, or any subsequent legislation, prior to the commencement of each phase of development a plan specifying arrangements for the management of the construction site for that Phase shall be submitted to and approved in writing by the local planning authority. The construction plan for that Phase shall include the following details as appropriate:

- a) full details of the contractor's temporary means of access to the site;*
- b) hours of delivery of materials and routing of construction and delivery vehicles to / from site;*
- c) location of site management offices and/or sales office;*
- d) location of materials storage compounds, loading/unloading areas and areas for construction vehicles to turn within the site;*
- e) car parking areas for construction workers, sales staff and customers;*
- f) the extent of and surface treatment of all temporary road accesses leading to compound/storage areas*
- g) temporary warning and direction signing on the approaches to the site including any temporary traffic measures;*
- h) implementation of mitigation measures as detailed in Section 7 in the Air Quality Assessment dated June 2020;*
- i) Provision of wheel washing facilities;*

The construction plan details as approved shall be implemented before the development of that phase is begun and shall be kept in place, operated and adhered to at all times until the development of that Phase is completed. In addition, no vehicles involved in the construction of the development of that phase shall enter or leave the site of the development of that Phase except via the temporary means of access within the approved construction plan for that Phase.”

Additional conditions required

36) Vehicular access arrangements to consist of a primary access onto the B2027 Four Elms Road as shown in principle on Drawing Number 70003967-SK-010 Rev D (subject to such revisions as may be agreed with the local highway authority as part of the detailed design process pursuant to the requisite highways agreement) and to be provided prior to occupation of any development and separate secondary access via the medical centre access and an emergency access via Forge Croft/Frantfields.

Reason: In the interests of highway safety and access in accordance with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

37) Save where the requisite traffic regulation order has already been sought or obtained through the highways agreement referred at condition 36 above, prior to occupation of the development, the applicant shall submit an application to the local highway authority seeking an extension to the 30mph speed limit along Four Elms Road sufficient to encompass the approved access pursuant to section 1 of the Road Traffic Regulation Act 1984 not Road Traffic Act 1984 (or such other enabling legislation as shall be applicable)

Reason: In the interest of highway safety.

38) In respect of the main estate / spine road serving the station car park any application to the local highway authority for the adoption of said road pursuant to s38 of the highways act 1990 shall include details of any measures or parking restrictions proposed by the applicant to restrict commuter parking on said roads in the event that the new station car park is brought into use.

Reason: In the interests of highway safety and access in accordance with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

39) Prior to commencement of development of the school site a Transport Assessment review shall be undertaken and completed. The completed review shall be submitted to and approved by the local planning authority and shall be implemented in accordance with the approved details prior to the first use of the school hereby permitted.

Reason: To assess any further impact upon the highway network and in the interests of highway safety, in accordance with Policy EN1 of the Sevenoaks Allocations and Development Management Plan

40) Prior to occupation of the school site:

i) Additional space to be provided for the bus/coach drop off/pick area and a separate/segregated student drop off/pick up area to be provided prior to the occupation of the school.

ii) Details of arrangements of a delivery management plan which includes details delivery vehicles to park and manoeuvre clear of the highway shall be submitted to and approved by in writing by local planning authority.

The development shall accord with the approved details.

Reason: In the interests of highway safety and access in accordance with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

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4.2 - 21/01058/FUL - Lyndhurst Cottage, Holly Bush Lane, Sevenoaks KENT TN13 3UN

Correction to Report:

Paragraph 92 of the Officer's Report refers to the Sevenoaks Residential Developments SPD. This is incorrect and should read "Sevenoaks Residential Extensions SPD".

Additional Consultation Response:

Environmental Health have provided comments on the proposed air source heat pump, and have suggested that further information on the likely noise levels would be required before they can comment in full. This matter is already addressed in paragraph 100 of the report and condition 9 requires that details of any ground or air source heat pump should be submitted for approval. No further changes to the recommendation are therefore required.

Amend recommendation - additional condition:

10. The new garage hereby permitted shall be used only in connection with, and shall be ancillary to, the main dwellinghouse on the site.

Reason: In the interests of preserving residential amenity to highway safety, to comply with policies EN1 and T2 of the Sevenoaks ADMP

4.3 - 21/02430/HOUSE - The Castle House, Sevenoaks Road, Otford KENT TN14 5PB

No Late Observations

4.4 - 21/02431/LBCALT - The Castle House, Sevenoaks Road, Otford KENT TN14 5PB

No Late Observations

20/02988/OUT

Revised expiry date 28 March 2022

Proposal: Outline application for the erection of 340 dwellings, including affordable housing, land for a 4FE secondary school including playing fields, land for a new twin hall venue for Edenbridge Scout Group, creation of a new car park for Edenbridge Town Station and associated infrastructure improvements, allotments, associated access from Four Elms Road, emergency access, open space, attenuation areas and landscaping and some matters reserved save for means of access.

Location: Land North Of Town Station Cottages, Forge Croft, Edenbridge KENT TN8 5LR

Ward(s): Edenbridge North & East

Item for decision

This application has been referred to Development Control Committee at the discretion of the Chief Planning Officer, as the development is of a significant nature being major development within the Green Belt.

RECOMMENDATION A: That the committee resolve that application that planning permission be GRANTED subject to:

- a) Refer the application to the Secretary of State as major development in the Green Belt, to decide whether to call the application in, and
- b) The conditions set out below, subject to any minor changes to wording being agreed in writing by the Chief Officer for Planning and Regulatory Services, and
- c) A satisfactory legal agreement made under section 106 of the Town and Country Planning Act 1990 (as amended) being completed no later than 28 March 2022, unless in accordance with a new timescale otherwise agreed in writing by the Chief Officer for Planning and Regulatory Services.

Section 106 Agreement

The Section 106 Agreement shall include the following requirements:

- Affordable Housing comprising of 40% affordable housing to be provided on site of which 65% of the affordable properties to be provided as Affordable Rented / Social Rented - 35% of the affordable properties to be provided as

Intermediate Housing;

- Highways Contributions comprising:

£20,000 towards relining and resurfacing works in the vicinity of the Four Elms Village crossroads;

- £1,000 to be used by Edenbridge Town Council/Hever Parish Council to help fund traffic surveys in the village of Four Elms;

- Travel Plan monitoring fee of £948;

- £14,000 towards the provision of 2no. bus stops on the site;

- £40,000 to be used for improvements to the sections of Public Right of Way of SR603 and SR604 adjoining the site and linking to the land;

- Provision of 0.29ha of land for new allotments - each plot to be 6m x 9m together with an associated allotment car park (to be provided and transferred to Town Council subject to them confirming required).
- Open Space to be provided on site (and transferred to a management company for future maintenance) comprising of areas of land for amenity greenspace and areas of land for semi natural greenspace;
- 0.104ha of children's play space to be provided as 6 Local Areas of Play (LAP's) and 1 Local Equipped Area of Play (LEAP) unless otherwise agreed;
- The safeguarding and transfer (if called for during a specified period) of 0.37ha of land for the construction of a new scout hut for Edenbridge Scout Group; and £200,000 towards the construction of the scout hut and ancillary facilities (i.e. car-parking and outdoor facilities) thereon if the land is taken;
- The safeguarding of 5.3ha of land to accommodate a secondary school and associated sports facilities and playing fields and its transfer to an education provider if called for within a specified period of time;
- The creation of a new parking area for 36 spaces, pick-up and drop off area and a step-free access ramp leading to the platform at Edenbridge Town Station either through the direct provision by the developer or the provision of land and utilisation of the financial contribution referred to below;
- £1,000,000 contribution payable to Network Rail to be used for safety improvements to the Little Mowhurst level crossing and infrastructure improvements (including new ticket machines, barriers, signage, any project to provide a new passenger footbridge and (if delivered by Network Rail) the

new parking area) at Edenbridge Town Station;

- Provision of land and creation of 6 parking spaces for use by residents of Town Station Cottages.

1) Application for approval of the reserved matters for the first Phase of the development shall be made to the local planning authority not later than 3 years from the date of this permission. Application for approval of the reserved matters for all other Phases shall be made not later than 5 years from the date of this permission. For the purposes of this permission all references to a "Phase" or "Phase of development" shall be interpreted as being a reference to a Phase as defined on the phasing plan approved or subsequently updated pursuant to condition 4.

In Pursuance of section 92(2) of the Town and Country Planning Act 1990.

2) The development shall be begun not later than whichever is the later of the following dates:- the expiration of 2 years from the date of approval of the last reserved matters application for the first Phase or the expiration of 5 years from the date of this permission.

In Pursuance of section 92(2) of the Town and Country Planning Act 1990.

- 3) Before any development in each Phase is begun plans showing the:
- a) appearance;
 - b) landscaping;
 - c) layout, including any pedestrian access into and within the site , and vehicular access within the site which serves the Phase; and
 - d) Scale.

To accord with Article 5 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 as amended.

4) As part of, or prior to, the submission of the application for reserved matters for the first Phase of development, a phasing plan setting out the boundaries of the proposed phases of the development across the whole site shall be submitted to and approved in writing by the local planning authority. The phasing plan shall include a programme for the layout out of the access roads into the site. Thereafter each reserved matters application for a Phase submitted pursuant to Condition 3 shall be accompanied by an updated phasing plan. The updated phasing plan shall set out any proposed changes from the phasing plan previously approved pursuant to this Condition. The development shall be carried out in accordance with the phasing plan as approved and updated or required by

other conditions of this permission.

To ensure the satisfactory delivery of elements of the proposed development and to accord with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

5) Development shall not begin in any Phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the Flood Risk Assessment compiled by WSP (September 2020, Version 2). The submission shall also demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

Phasing for the drainage scheme shall be submitted and approved, including any needed temporary works, specific provisions per phase or other strategic drainage infrastructure. The drainage scheme shall also demonstrate (with reference to published guidance):- that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters. - appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including and proposed arrangements for future adoption by any public body or statutory undertaker. The drainage scheme shall be implemented in accordance with the approved details.

To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

6) No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate the suitable modelled operation of the drainage system where the system constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework.

7) If, during the course of development of a Phase, contamination not previously identified is found to be present in that Phase, no further works shall be undertaken in the relevant area of that Phase and the contamination shall be reported to the local planning authority as soon as reasonably practicable (but within a maximum of 5 working days from the find). Prior to further works being carried out in the relevant area of that Phase, a further assessment shall be made and appropriate remediation implemented in accordance with a scheme submitted to and approved in writing by the local planning authority.

To ensure that the site is remediated appropriately for its intended use and to accord with the aims and objectives of the National Planning Policy Framework.

8) As part of, or prior to, the first application for reserved matters, a site-wide recreation and open space strategy for the entire site shall be submitted to and agreed in writing by the local planning authority. The strategy should be in broad accordance with the areas of open space identified in the section 8.3.3 of the Design and Access Statement and drawing no. 1590-P1-11 Rev.N. Thereafter subsequent Phases shall proceed in broad accordance with the approved strategy, and each reserved matters application submitted pursuant to Condition 3 shall be accompanied by an updated recreation and open space strategy which sets out any proposed changes from recreation and open space strategy previously approved pursuant to this Condition.

To ensure adequate provision of public open space to meet the needs of future occupiers of the development and to accord with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

9) No development within a Phase shall commence until the local planning authority has approved in writing the details of, and arrangements for, the setting out of on-site public open space as part of that Phase of the development. The on-site public open space shall broadly accord with the site-wide recreation and open space strategy pursuant to condition 8, and shall include the following matters in respect of the Phase:

- a) The delineation and siting of the proposed public open space;
- b) The type and nature of the facilities to be provided within the public open space including, where relevant, children's play provision;
- c) The arrangements to ensure that the public open space is laid out and completed during the course of the development; and
- d) An annual maintenance schedule.

The open space for that Phase shall be completed in accordance with the approved details and arrangements for that Phase.

To ensure adequate provision of public open space to meet the needs of future

occupiers of the development and to accord with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

10) Before any part of any Phase of the development is brought into use, the relevant proposed means of vehicular and pedestrian access hereby approved as part of that Phase shall be laid out, hard surfaced and drained in broad accordance with the approved plans and completed to a constructional specification approved in writing by the local planning authority.

To ensure that a suitable form of access is made available to serve the development in the interests of highway safety and to accord with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

11) No development shall commence for the school playing fields and MUGA, until the following documents have been submitted to and approved in writing by the Local Planning Authority after consultation with Sport England: (i) A detailed assessment of ground conditions (including drainage and topography) of the land proposed for the playing field which identifies constraints which could adversely affect playing field quality; and (ii) Where the results of the assessment to be carried out pursuant to (i) above identify constraints which could adversely affect playing field quality, a detailed scheme to address any such constraints. The scheme shall include a written specification of the proposed soils structure, proposed drainage, cultivation and other operations associated with grass and sports turf establishment and a programme of implementation. The approved scheme shall be carried out in full and in accordance with the approved programme of implementation before first occupation of the educational establishment. The land shall thereafter be maintained in accordance with the scheme and made available for playing field use in accordance with the scheme.

Reason: To ensure that the playing field is prepared to an adequate standard and is fit for purpose and to accord with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

12) No development shall commence for the school playing fields until a schedule of playing field maintenance including a programme for implementation for a minimum period of five years starting from the commencement of use of the development has been submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. Following the commencement of use of the development the approved schedule shall be complied with in full.

To ensure that the playing field is first established as a functional playing field to an adequate standard and is fit for purpose and to accord with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

13) The school playing field/s and pitch/es shall be constructed and laid out in accordance with the condition 12 and with the standards and methodologies set out in the guidance note "Natural Turf for Sport" (Sport England, 2011), and shall be made available for use before first use of the educational establishment of the

development hereby permitted.

To ensure the quality of pitches is satisfactory and they are available for use before development and to accord with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

14) Use of the school playing fields, multi-use games area and athletic track shall not commence until a community use agreement prepared in consultation with Sport England has been submitted to and approved in writing by the Local Planning Authority, and a copy of the completed approved agreement has been provided to the Local Planning Authority. The agreement shall apply to playing fields, multi-use games area and athletic track and include details of pricing policy, hours of use, access by non-educational establishment users, management responsibilities and a mechanism for review. The development shall not be used otherwise than in strict compliance with the approved agreement.

Reason: To secure well managed safe community access to the sports facility/facilities, to ensure sufficient benefit to the development of sport and to accord with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

15) The development shall be carried out in accordance with the submitted Flood Risk Assessment (ref 3967-FRA-01, dated September 2020) and the following mitigation measures it details:

As part of the reserved matters details of a completely separate flood storage area to compensate the flood risk from river in the area where the finishing levels of the road, which falls within Flood Zone 3, will be raised above pre-development ground levels.

All Finished floor levels shall be set to whichever is the greater level of the following: a minimum of 300mm above the 1 % AEP (35% increased flow) climate change flood level or 50mm above the 1 % AEP (70% increased flow) climate change flood level.

Details to be provided that demonstrate finished site levels to be engineered in such manner to prevent ponding. Gradients of external areas to be designed to fall away from dwellings such that overland flow routes resulting from exceedance flood events follow the path of least resistance and be channelled away from proposed properties.

These mitigation measures shall be fully implemented prior to occupation of the first residential unit.

To ensure that flood risks from development to the future users of the land and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 168 of the National Planning Policy Framework.

16) Any applications for approval of reserved matters pursuant to condition 2 shall broadly accord with the parameter plans land use [GIP (drawing ref no. 1590 P1-12 Rev.G)], proposed lighting parameters in the lighting strategy report, Noise and Vibration Assessment dated April 2020, Landscape and Ecological Strategy dated September 2020.

To ensure that the development achieves high quality design and is in accordance with paragraphs 124, 126 and 127 of the National Planning Policy Framework and policies

17) No development of a Phase, shall take place until a detailed 'Landscape, Ecology, Management and Monitoring Plan' (LEMMP) will be submitted to, and approved by, the local planning authority. This will be in accordance with the measures outlined in the Landscape and Ecology Strategy (Corylus Ecology September 2020) and the Biodiversity Net-Gain Report (Corylus Ecology March 2021).

To accord with policy SP11 of the Sevenoaks District Council Core Strategy and paragraph 180 of the National Planning Policy Framework.

18) Notwithstanding the provision of Class A, Part 4 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, or any subsequent legislation, prior to the commencement of each phase of development a plan specifying arrangements for the management of the construction site for that Phase shall be submitted to and approved in writing by the local planning authority. The construction plan for that Phase shall include the following details as appropriate:

- a) full details of the contractor's temporary means of access to the site;
- b) hours of delivery of materials and routing of construction and delivery vehicles to / from site;
- c) location of site management offices and/or sales office;
- d) location of materials storage compounds, loading/unloading areas and areas for construction vehicles to turn within the site;
- e) car parking areas for construction workers, sales staff and customers;
- f) the extent of and surface treatment of all temporary road accesses leading to compound/storage areas
- g) temporary warning and direction signing on the approaches to the site including any temporary traffic measures;
- h) implementation of mitigation measures as detailed in Section 7 in the Air Quality Assessment dated June 2020;

i) Provision of wheel washing facilities;

The construction plan details as approved shall be implemented before the development of that phase is begun and shall be kept in place, operated and adhered to at all times until the development of that Phase is completed. In addition, no vehicles involved in the construction of the development of that phase shall enter or leave the site of the development of that Phase except via the temporary means of access within the approved construction plan for that Phase.

To ensure the provision of proper site construction facilities in the interests of highway safety and amenity of the surrounding environment and its occupants and to accord with Policies EN1, EN2, T1 of the Sevenoaks Allocations and Development Management Plan.

19) Prior to first occupation of each dwelling with one or more dedicated vehicle parking spaces, that dwelling shall be provided with access to a fully operational 3 pin socket on a dedicated circuit, capable of providing a "trickle" charge to an electric vehicle. All Electric Vehicle Charging Points shall be provided either within garage space or via outdoor, weatherproof sockets within easy access of the off-road parking areas.

In accord with policy T3 of the Sevenoaks District Council Allocation and Development Management Plan.

20) Prior to first occupation of each dwelling with non-dedicated parking, that dwelling shall be provided with Electric Vehicle Charging Points at a rate of no less than 1 per 10 communal parking spaces. This minimum requirement shall comprise access to a fully operational 3 pin socket capable of providing a "trickle" charge to an electric vehicle. All communal Electric Vehicle Charging Points shall be clearly marked with their purpose.

In accord with policy T3 of the Sevenoaks District Council Allocation and Development Management Plan.

21) All other types of development (other than housing, scout hut and allotments site) at the site shall provide Electric Vehicle charging facilities and shall include parking at the proposed education facility. Where provided, all Electric Vehicle charging facilities shall be fully operational prior to first occupation or use.

In accord with policy T3 of the Sevenoaks District Council Allocation and Development Management Plan.

22) Prior to the commencement of any Phase of residential development, a detailed Travel Plan for that Phase which is in broad accordance with the Framework Residential Travel Plan dated June 2021, and finalises the travel plan measures to be put in place for that Phase shall be submitted to and approved in writing by the local planning authority. The detailed Travel Plan for that Phase

shall include reference to Travel Plan measures to be set out within the residents' welcome packs. The detailed Travel Plan for that Phase shall thereafter be carried out and operated as approved.

To promote sustainable travel options, minimise reliance on the private car and reduce traffic congestion and demand for on street parking in the locality, in the interests of pedestrian and highway safety and to accord with Policy

23) Six months prior to the occupation of the school, a detailed School Travel Plan which is in broad accordance with the School Sensitivity Impact & Zebra Crossing Feasibility Report dated July 2021, and finalises the travel plan measures to be put in place for the school shall be submitted to and approved in writing by the local planning authority. The School Detailed Travel Plan shall thereafter be carried out and operated as approved.

To promote sustainable travel options, minimise reliance on the private car and reduce traffic congestion and demand for on street parking in the locality, in the interests of pedestrian and highway safety and to accord with Policy T1 of the Sevenoaks Allocations and Development Management Plan.

24) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of any necessary archaeological work:

i) a desk top study exploring the archaeological potential of the site; and if necessary

ii) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and if necessary iii) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority.

To ensure that features of archaeological interest are properly examined and recorded and that due regard is had to the preservation in situ of important archaeological remains, in accordance with Policy EN4 of the Sevenoaks Allocations and Development Management Plan.

25) Construction work shall only be carried out between the hours of 0730 and 1800 on Mondays to Fridays, 0730 and 1300 on Saturdays and at no time on Sundays, Bank or Public Holidays, unless specifically agreed otherwise in writing by the local planning authority.

To protect the amenity of the occupants of nearby dwellings and to accord with policy EN1 of the Sevenoaks Allocation and Development Management Plan.

26) No development shall take place over the alignment of Public Footpath SR603 or SR604 until an Order for their permanent diversion has been made and confirmed, and the diverted route has been fully provided and certified, unless otherwise agreed in writing by the local planning authority.

To ensure that public rights of way are properly safeguarded in the public interest in accordance with Policy T1 of the Sevenoaks Allocations and Development Management Plan.

27) Prior to the commencement of a relevant Phase that affects existing Public Right of Way SR603 and SR604, further details of their resurfacing shall be submitted to and agreed in writing by the local planning authority. The development shall accord with the approved details and implemented in full prior to the first occupation of a residential unit of a relevant phase, unless otherwise agreed in writing by the local planning authority.

To ensure that public rights of way are properly safeguarded in the public interest in accordance with Policy T1 of the Sevenoaks Allocations and Development Management Plan.

28) Prior to the commencement of any phase of the development hereby permitted shall implement mitigation measures in accordance with the Arboricultural and Method Statement and Manual for Managing Trees on Development Site.

To ensure that the appearance of the development enhances the character and appearance of the area as supported by Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

29) The applicant shall obtain a Secured by Design accreditation for the residential development hereby permitted, a copy of which must be submitted to, and approved in writing by the Local Planning Authority unless otherwise agreed within three months of the completion of the development hereby permitted.

In the interest of Security, Crime Prevention and Community Safety and in accordance with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

30) The development hereby permitted shall not be used or occupied until the visibility splays shown on the approved 70003967-SK-10 Rev. D have been provided and anything which obstructs visibility at any height greater than 0.6 metres above the surface of the adjoining carriageway has been removed. Thereafter the visibility splays shall be maintained free from obstruction at all times.

In the interest of highway safety as supported by Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

31) Prior to the commencement of each phase of development (or as part of the

Reserved Matters application for that phase), further details of the design and the number of the residential dwellings to be constructed in accordance with Part M4(2) of the Building Regulations shall be submitted to approved in writing by the local planning authority. A total of 17 homes across the site shall be built in accordance with the M4(3)b of Building Regulations.

In accordance with Policy SP5 of the Core Strategy.

32) The proposed scout hut and educational establishment hereby approved shall achieve a BREEAM minimum rating of 'Very Good' or alternative as agreed in writing by the local planning authority. Evidence shall be provided to the Local Authority in the following format and at the following times: i) Prior to first use of the educational/community element of the development, a final post-construction certificate certifying that the development has achieved a BREEAM minimum rating of 'Very Good' or alternative as agreed, shall be submitted to and approved in writing by the Local Planning Authority. Achievement of BREEAM 'Very Good' or alternative as agreed, must include at least a 10% reduction in the total carbon emissions through the on-site installation and implementation of decentralised, renewable or low-carbon energy sources.

In the interests of environmental sustainability and reducing the risk of climate change as supported in Policy SP2 of the Sevenoaks Core Strategy.

33) Prior to the first use of the educational establishment hereby permitted the off-site highway works as shown on drawing no. 70003967-SK10 Rev.10 (subject to any revisions thereto as may be agreed with the local highway authority through the detailed design process under the relevant highways agreement) shall have been completed in full to the satisfaction of the local planning authority.

In the interest of highway safety as supported by Policies EN1 and T1 of the Sevenoaks Allocations and Development Management Plan.

34) The development shall be constructed to provide on-site modern communication and technology infrastructure, which should include Broadband, high speed internet cabling and digital TV cabling. Details relating to the provision of such infrastructure shall be submitted prior to the commencement of each phase of the development. No residential unit in any phase shall be occupied until the approved infrastructure has been provided in each relevant phase, or in accordance with an alternative timescale agreed by the Local Planning Authority as part of the approved details.

To provide high quality technological infrastructure in accordance with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

35) The development hereby permitted shall be carried out in accordance with the following approved plans: P18099-001D, 7000 3967-SK-25 Rev.A, 7000 3967-SK-10 Rev.D.

For the avoidance of doubt and in the interests of proper planning.

36) Vehicular access arrangements to consist of a primary access onto the B2027 Four Elms Road as shown in principle on Drawing Number 70003967-SK-010 Rev D (subject to such revisions as may be agreed with the local highway authority as part of the detailed design process pursuant to the requisite highways agreement) and to be provided prior to occupation of any development and separate secondary access via the medical centre access and an emergency access via Forge Croft/Frantfields.

Reason: In the interests of highway safety and access in accordance with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

37) Save where the requisite traffic regulation order has already been sought or obtained through the highways agreement referred at condition 36 above, prior to occupation of the development, the applicant shall submit an application to the local highway authority seeking an extension to the 30mph speed limit along Four Elms Road sufficient to encompass the approved access pursuant to section 1 of the Road Traffic Regulation Act 1984 not Road Traffic Act 1984 (or such other enabling legislation as shall be applicable).

Reason: In the interest of highway safety.

38) In respect of the main estate / spine road serving the station car park any application to the local highway authority for the adoption of said road pursuant to s38 of the highways act 1990 shall include details of any measures or parking restrictions proposed by the applicant to restrict commuter parking on said roads in the event that the new station car park is brought into use.

Reason: In the interests of highway safety and access in accordance with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

39) Prior to commencement of development of the school site a Transport Assessment review shall be undertaken and completed. The completed review shall be submitted to and approved by the local planning authority and shall be implemented in accordance with the approved details prior to the first use of the school hereby permitted.

Reason: To assess any further impact upon the highway network and in the interests of highway safety, in accordance with Policy EN1 of the Sevenoaks Allocations and Development Management Plan

40) Prior to occupation of the school site:

i) Additional space to be provided for the bus/coach drop off/pick area and a separate/segregated student drop off/pick up area to be provided prior to

the occupation of the school.

ii) Details of arrangements of a delivery management plan which includes details delivery vehicles to park and manoeuvre clear of the highway shall be submitted to and approved by in writing by local planning authority.

The development shall accord with the approved details.

Reason: In the interests of highway safety and access in accordance with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

Informatives

- 1) Guidance on preparing Community Use Agreements is available from Sport England. <http://www.sportengland.org/planningapplications/> For artificial grass pitches it is recommended that you seek guidance from the Football Association/England Hockey/Rugby Football Union on pitch construction when determining the community use hours the artificial pitch can accommodate
- 2) The proposed development has been assessed and it is the Council's view that the CIL is payable. Full details will be set out in the CIL Liability Notice which will be issued with this decision or as soon as possible after the decision.
- 3) Please be aware that this development is also the subject of a Legal Agreement under Section 106 of the Town and Country Planning Act 1990.
- 4) New build developments or converted properties may require street naming and property numbering. You are advised, prior to commencement, to contact the Council's Street Naming and Numbering team on 01732 227328 or visit www.sevenoaks.gov.uk for further details.
- 5) Should the development be approved by the Planning Authority, it is the responsibility of the applicant to ensure, before the development is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.
- 6) The applicant should note that under the terms of The Conservation of Habitats and Species Regulations 2010, Wildlife and Countryside Act 1981 and Countryside and Rights of Way Act 2000, it is an offence to disturb nesting birds or roosting bats which are also European Protected Species.

You should note that the work hereby granted consent does not override the statutory protection afforded to these and other protected species and you are advised to seek expert advice if you suspect that the demolition would disturb any protected species. Please note that a European Protected Species Licence will be required to allow the proposed development to proceed lawfully. Further details can be found at: <https://www.gov.uk/environmental-management/wildlife->

habitat-conservation

7) The developer is reminded that it is an offence to allow materials to be carried from the site and deposited on or damage the highway from uncleaned wheels or badly loaded vehicles. The Highway Authority will seek, wherever possible, to recover any expenses incurred in clearing, cleaning or repairing highway surfaces and prosecutes persistent offenders. (Highways Act 1980 Sections 131, 148, 149).

RECOMMENDATION B: If the S106 legal agreement is not completed in accordance with the above recommendation (A), that planning permission be REFUSED on the following grounds:

The development represents inappropriate development within the Green Belt and would lead to encroachment and urban sprawl. The very special circumstances advanced in this instance are not significant to outweigh the substantial harm to its openness and two out of the five purposes for its designation, contrary to the aims and objectives of the National Planning Policy Framework.

National Planning Policy Framework

In dealing with this application we have implemented the requirements in the National Planning Policy Framework to work with the applicant/agent in a positive, proactive and creative way by offering a pre-application advice service; as appropriate updating applicants/agents of any issues that may arise in the processing of their application and where possible and if applicable suggesting solutions to secure a successful outcome. We have considered the application in light of our statutory policies in our development plan as set out in the officer's report.

Background and reason for this addendum report

- 1 On 30 September 2021, the Development Control Committee resolved to grant planning permission for the above development at Four Elms Road in Edenbridge.
- 2 Since that resolution, work has been undertaken to negotiate the detail of the Section 106 Legal Agreement, based on the agreed Heads of Terms (see Minutes of the meeting attached within Appendix A).
- 3 The detailed negotiation process and has taken longer than anticipated.
- 4 For this reason, the Deputy Chief Executive and Chief Officer of Planning and Regulatory Services has exercised his discretion to extend the timescale for the completion of the legal agreement to 28 March 2022.
- 5 However during the course of the negotiations, KCC's solicitor wrote to an external solicitor representing our Council on the 2 February 2022 raising

concerns that some of the obligations sought by KCC had not been included in the committee heads of terms or draft S106 agreement. A copy of this letter is included in Appendix B. Discussions were also held between officers from each authority.

- 6 We have engaged with KCC on this matter, both at an individual application level and at a more strategic level. Those negotiations and discussions have not resulted in agreement being reached between the two authorities and KCC therefore object to the proposal on the grounds that failing to secure all of the planning obligations sought by KCC, the adverse impacts of the development will not be mitigated, and that the necessary infrastructure to support the development will not be delivered. Further information on their request and our response to it is set out below.

The consideration of this report

- 7 In light of the issues raised by KCC it is considered to be in the interests of transparency and good governance for this application to be referred back to update Members, so that they are fully apprised of the matter by KCC thereby ensuring that all material planning considerations have been taken into account in determining the application. The application is to be considered afresh, as a whole.
- 8 This report is an addendum with the update on the key issues and attached is a copy of the original report, the late observations reported to committee and a copy of the minutes within Appendix A. The report also provides the summary planning balance of this case.
- 9 Summary of new material considerations since the committee resolution:
 - Referral to Secretary of State
 - Housing delivery test
 - Broke Hill Decision
 - KCC Objection to the Section 106 & CIL arrangements

Referral to Secretary of State

- 10 Following the committee resolution to grant planning permission subject to completion of the Section 106 agreement, the planning application was referred to the Secretary of State as a major departure from the development plan.
- 11 The Secretary of State for the Department for Levelling Up, Housing and Communities responded on the 7 October 2021 and confirmed that the Secretary of State decided not to call in this application. The Secretary of State was content that the application should be determined by the local planning authority.

Housing delivery test

- 12 In January 2022, the Government released new data on the housing supply, as part of the Housing Delivery Test. The current situation is as follows:
- The latest Housing Delivery Test results (2021) show that 62% of the overall housing need has been delivered over the previous 3 years, and therefore a 20% buffer applies to the 5 year supply calculation.
 - We do not have a 5 year supply (we have 2.9 years as at September 2021). This will be reviewed after April, to consider the latest monitoring data.
 - Given the Housing Delivery Test result falls under 62%, and we cannot demonstrate a 5 year supply, both of these things independently mean that there remains a presumption in favour of development subject to para 11(d) of the NPPF.
- 13 The consequences of this, do not change our assessment from September 2021, given that we remain a presumption authority under the Housing Delivery Test, albeit our delivery in the past three years, in part to Covid has been lower than expected.

Broke Hill Decision

- 14 The planning appeal at Broke Hill was for 800 homes, 180 extra care units, a primary school, community centre, business units and sports facilities was dismissed by the Planning Inspector on the 31 January 2022. The Planning Inspector whilst accepting that there was a significant need for the housing, found that the case of very special circumstances presented, which included extra care housing, affordable housing units, sports provision, school with special needs unit was not sufficient to outweigh the significant harm to the green belt. In particular, he found that there would be substantial harm to the openness of this strongly performing green belt site, both in visual and spatial terms. It would also harm to the landscape character and appearance of the local area, both within the site and surrounding the site. Plus it was found that the sites location lacked the necessary sustainability requirements, both in public transport and proximity to a higher tier settlement. Therefore the majority of the trips carried out by private motor vehicles.
- 15 Whilst both sites lie within the green belt, the Four Elms Road site is immediately adjacent to a higher tier settlement, within a sustainable location and close to local services and facilities. The Four Elms Road site is also a poorly performing green belt site and actually provides much needed and identified infrastructure for Edenbridge, such the provision land for the secondary school and improved accessibility to the Edenbridge Town train station. Therefore the two sites are not comparable in terms of the harm to the green belt nor in terms of the benefits that arise as cases of very special circumstances.
- 16 A tri-lateral Section 106 Agreement was signed with KCC, Quinns and ourselves for the onsite infrastructure, including a primary school, sports provision, extra home care, bus service, car clubs, a contribution to improvements to the Knockholt station and travel plans as they were directly related to the development and reasonable, therefore complied

with section 122 of the CIL Regulations. The highway works were subject to planning conditions and Section 278 agreements. In addition CIL was chargeable on this development, which would have generated significant CIL receipts from the development.

- 17 Separate to this agreement, Quinn Estates & KCC signed a bi-lateral agreement to top up or cover the KCC off site development contributions, if they are unsuccessful in bidding for such funds via the Council's CIL Governance Board and/or did not feature on the Annual Infrastructure Funding Statement. However the Planning Inspector made no assessment as to whether or not the KCC request was reasonable. Nor did he comment on whether it complied with the section 122 of the CIL Regulations. Therefore we do not consider that the Broke Hill case holds any significant weight in KCC's case, as ultimately no decision was made and therefore no conclusions can be drawn.
- 18 It should be noted that the Broke Hill the bi-lateral agreement was drawn up the basis that the Broke Hill owner would cover funding shortfall, if KCC were unsuccessful through the CIL bidding process. This is different approach to that currently being sought by KCC, who are seeking full contributions to be incorporated into the Section 106 agreement

KCC Objection to the Section 106 & CIL arrangements

- 19 KCC's Solicitor formally lodged an objection on the 2 February 2022 as to how we have considered KCC's request for developer contributions, from their letter dated the 11 November 2020, which was their formal comments on the planning application. For clarity, the letter of 20 November 2020 is from KCC's Economic Development (Developer Contributions) team.

KCC's requirements for the S106 agreement were not reported in the committee report

- 20 It is not accepted that the Council failed to take into account material considerations in the form of representations submitted by KCC in the preparation of its officers' report to committee for application 20/02988/OUT.
- 21 The regarding financial contributions set out in the 11 November 2020 request letter, it was highlighted to members in the usual manner in paragraph 275 that:

'The development would be liable for CIL and the extent of CIL liability would be determined at the Reserved Matters stage, once the liable floorspace were established. This is as required by the CIL regulations. CIL contributions are intended to fund infrastructure to help support development. Infrastructure providers would be able to bid for funds in line with the Council's existing CIL spending procedures. As Sevenoaks District Council is a CIL charging authority, it would not be reasonable to secure other financial contributions for infrastructure.'

- 22 Further reference to KCC's request for financial contributions was made at paragraph 110.
- 23 We are reminded by case law (*Mansell v Tonbridge and Malling Borough Council 2017*) that the officer's report does not need to set out and discuss each material consideration in turn, and is to be read fairly, as a whole, focussing on substance rather than form, and bearing in mind that they are written for councillors with local knowledge.
- 24 Given that we adopted our Community Infrastructure Levy (CIL) charging schedule on 18 February 2014 and have been charging on all qualifying development since 4 August 2014, members are well aware of this and need no further direction other than that provided above to be reassured that the infrastructure needs arising as a result of the proposed development will be met in the usual manner through awards made by the CIL Spending Board.
- 25 Further, it is very clear that KCC were similarly aware of the approach taken by SDC to CIL and infrastructure requests, as it stated in their request letter of 11 November 2020:
- 'KCC appreciate Sevenoaks are now a CIL Authority, however, to assist we set out below the County assessment of impact, and would request these are mitigated through an appropriate planning obligation should they not be covered on this site by Sevenoaks CIL'.*
- 26 The 11 November 2020 request from KCC Economic Development was only ever for off-site financial contributions, if they were not to be covered by CIL, other than the land for a secondary school, which is secured through the Section 106 Agreement. This is consistent with the statement in the committee report that we do not consider it reasonable to require contributions for matters other than those set out in the list of Heads of Terms, because those matters are covered by CIL.
- 27 The officer's report did not misdirect the members in any material way. Members did not need any further explicit advice in respect of KCC's infrastructure requests, other than that provided.

CIL and Section 106 - Regulation 122

- 28 While the CIL Regulations in 2019 removed Regulation 123 list, Regulation 122 allows the possibility (in what, we would suggest, will be very limited circumstance) of items being covered by both CIL and S106, to be lawful and policy compliant. Regulation 122 states that

"A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is -

- (a) necessary to make the development acceptable in planning terms;*
- (b) directly related to the development; and*
- (c) fairly and reasonably related in scale and kind to the development."*

- 29 The existing draft Section 106 agreement currently seeks to secure the following infrastructure, land, management and contributions, as they are all considered to be necessary, directly related to the development, fair and reasonable and comply with Regulation 122:
- Affordable Housing comprising of 40% affordable housing to be provided on site of which 65% of the affordable properties to be provided as Affordable Rented / Social Rented - 35% of the affordable properties to be provided as Intermediate Housing
 - Highways Contributions comprising:
 - £20,000 towards relining and resurfacing works in the vicinity of the Four Elms Village crossroads;
 - £1,000 to be used by Edenbridge Town Council/Hever Parish Council to help fund traffic surveys in the village of Four Elms;
 - Travel Plan monitoring fee of £948;
 - £14,000 towards the provision of 2no. bus stops on the site;
 - £40,000 to be used for improvements to the sections of Public Right of Way of SR603 and SR604 adjoining the site and linking to the land;
 - Provision of 0.29ha of land for new allotments - each plot to be 6m x 9m together with an associated allotment car park (to be provided and transferred to Town Council subject to them confirming required)
 - Open Space to be provided on site (and transferred to a management company for future maintenance) comprising of areas of land for amenity greenspace and areas of land for semi natural greenspace
 - 0.104ha of children's play space to be provided as 6 Local Areas of Play (LAP's) and 1 Local Equipped Area of Play (LEAP) unless otherwise agreed;
 - The safeguarding and transfer (if called for during a specified period) of 0.37ha of land for the construction of a new scout hut for Edenbridge Scout Group; and £200,000 towards the construction of the scout hut and ancillary facilities (i.e. car-parking and outdoor facilities) thereon if the land is taken
 - The safeguarding of 5.3ha of land to accommodate a secondary school and associated sports facilities and playing fields and its transfer to an education provider if called for within a specified period of time

- The creation of a new parking area for 36 spaces, pick-up and drop off area and a step-free access ramp leading to the platform at Edenbridge Town Station either through the direct provision by the developer or the provision of land and utilisation of the financial contribution referred to below
- £1,000,000 contribution payable to Network Rail to be used for safety improvements to the Little Mowhurst level crossing and infrastructure improvements (including new ticket machines, barriers, signage, any project to provide a new passenger footbridge and (if delivered by Network Rail) the new parking area) at Edenbridge Town Station
- Provision of land and creation of 6 parking spaces for use by residents of Town Station Cottages

30 Therefore the existing Section 106 seeks to provide significant infrastructure and contributions which are necessary, directly related to the development, fair and reasonable that are fully justified. This is on top the significant CIL receipts that will be generated from the site.

31 KCC is seeking the following off site financial contributions, amounting to over £1.9 million, as detailed in their letter dated the 20 November 2020 to be included within the Section 106 Agreement. I have reproduced their table as follows:

Infrastructure sought	Total sum sought in £	Project Notes
Secondary Education	1,759,840.00	Towards the construction of the New Secondary School in Sevenoaks District
Community learning	5,582.80	Towards additional resources and classes for the new learners in the Sevenoaks District
Youth services	22,270.00	Towards Youth Services locally in Sevenoaks District
Libraries	18,853.00	Towards additional stock, services and resources at Edenbridge Library
Social care	49,939.00	Towards Specialist care accommodation within Sevenoaks District
Waste	62,447.80	Towards Sevenoaks WTS expansion and HWRC extension

TOTAL £	£1,918,932.60	

- 32 We fully acknowledge that that there will be some impact from the development that would lead to a demand for infrastructure provision as KCC sets out in their letter. However there is a lack of clarity about what actual infrastructure will be provided and where. In particular the majority of the contributions sought are for district wide provision, with no specific project or no indication as to how it would relate to the development site or within the local area.
- 33 Therefore I consider KCC’s that the request is not reasonable, fair or directly related to the development and therefore does not comply with Regulation 122. It is not therefore proposed to include the infrastructure requested in the legal agreement, other than the existing KCC provisions set out within the Heads of Terms, including land for a secondary school and approximately £75K highway & footpaths improvements and travel plan.
- 34 I would also draw members attention back to KCC’s request letter dated the 11 November 2020, which states that “KCC appreciate Sevenoaks are now a CIL Authority, however to assist we set out below the County assessments of impact, and would request these are mitigated through an appropriate planning obligation should they not be covered on this site by Sevenoaks CIL.”
- 35 None of these off site contributions requests comply with Regulation 122 for the reasons set out above, mainly as they are not directly related to the site, as are district wide provision and are not fair or reasonable, given that CIL can also deal with such off site requests. None of them are necessary to make the development acceptable, given that they all can be covered by CIL.
- 36 Therefore we remain of the view that in respect of the proposed scheme, the duplication of the contributions would not pass the Regulation 122 test in this instance. The contributions sought by KCC can be bid for through the CIL Governance Board.

KCC’s concerns over the securing monies via CIL

- 37 KCC are concerned that there is no guarantee that they receive the contributions requested if they go through the bidding process of the CIL Governance Board. They have also highlighted that fact that none of their requests on this application are covered by the Council’s current Annual Infrastructure Funding Statement (IFS).
- 38 This application does not form part of the adopted Local Plan and is a departure from the local plan. Therefore any potential infrastructure arising from this site, unsurprising do not feature within the current IFS nor the Infrastructure Delivery Plan.

- 39 The IFS is issued annually and lays out our priorities for infrastructure for the next year. When reviewing the IFS each year, we consider any changes to the Infrastructure Delivery Plan and any changes in circumstances, such as the grant of permission for any major development sites, not previously envisaged, before setting the priorities for CIL for the next year. Therefore if the planning application for Four Elms were to be approved, and the requirement for infrastructure that KCC have sought, then this would mean that the priorities in the IFS would change to include KCC's request in future IFS.
- 40 If specific infrastructure is laid out as a priority in the IFS, then this would influence the CIL Spending Board, which is a Board of elected members that decides where CIL money is spent. There is a small risk that members of this Board could decide not to issue the CIL money towards these needs, however if it is identified in the IFS as a clear priority and is there is a clear evidence to the need, it is considered that the risk would be small.
- 41 KCC are fully entitled to put in requests for funding of specific projects via the CIL Governance Board, as and when the need arises. We have also provided KCC with advice on assisting their future submissions for CIL funding for future projects.

Conclusion

- 42 Reviewing the request for planning obligations from KCC, in accordance with Regulation 122, it is concluded that the requests do not meet the tests required. The information submitted has not demonstrated that the obligations either individually or cumulatively would be:
- a) Necessary to make the development acceptable in planning terms
 - b) Directly related to the development; and
 - c) Fairly and reasonably related in scale and kind to the development.
- 43 In order to comply with national and planning policy, there are many other provisions within the draft Section 106 agreement, that are to be secured, of which the most significant matter is the provision of affordable housing on site, which is prioritised through local and national policy.
- 44 It should be forgotten that the draft Section 106 seeks to secure 14 items of infrastructure, financial contributions, land provision or management plans that comply with Regulation 122, whilst the development is also paying full CIL.

Planning Balance

- 45 In accordance with section 38(6) of the 2004 Act, this application has to be determined in accordance with the development plan, unless material considerations (which include the NPPF), indicate otherwise.
- 46 There is no dispute that the application proposal would be inappropriate development in the Green Belt, nor is there any dispute that the proposal

would have an adverse impact on the openness of the Green Belt. Therefore the tilted balance of paragraph 11(d) of the NPPF does not come into play.

- 47 Instead the balancing of this application, we will be look at paragraphs 147 & 148 of the NPPF, where planning permission should not be granted unless t a case of very special circumstances can be demonstrated.
- 48 We are required to “*ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.*”
- 49 Therefore we will look in detail for a number of factors that would potential weigh in favour of the scheme as a case of very special circumstances

Emerging Local Plan

- 50 The application site formed part of a mixed use allocation in the Council Proposed Draft Submission Local Plan, prior to be stopped at the Examination stage. The proposed allocation was to release the site from the green belt for development under a case of exceptional circumstances, due to needing to meet housing demands, but also providing a health centre and safeguarding land for a secondary school. The release of this site was linked to the Council’s development strategy of releasing green belt sites for development where they were adjacent of one of its four main settlements and where they were poorly performing green belts and would provide existing identified infrastructure provision.
- 51 Whilst it is fully acknowledged the Proposed Draft Submission Local Plan holds very limited weight, the principle of only releasing poorly performing green belt sites for housing adjacent to a main settlement in order to provide much needed infrastructure holds some weight.

Five Year Housing Supply

- 52 It is fully accepted that the Council does not have an up to date Local Plan and does not have an adequate five year housing supply. Whilst the Council’s has a Housing Delivery Test Action Plan to tackle the under supply of housing, part of that reliance will be adoption of a Local Plan, which will not come forward until 2023. This site has the ability achieve a significant contribution towards the District’s housing requirement with limited impact upon on the Green Belt.
- 53 The Council’s housing situation has been described in previous appeals as “acute” and “chronic”, with the Council only able to demonstrate a current supply of deliverable housing land of less than 2.9 years, very substantial weight to the provision of 340 new houses in the current proposal. Further to this, very substantial weight to the proposed delivery of 40% affordable housing on this site, for reasons set out earlier. Therefore the under

provision of housing supply holds substantial weight, albeit it does not outweigh the harm to the green belt on its own.

Biodiversity

- 54 The development would have no adverse impact on matters of ecological or nature conservation interest but would, instead, actually result in a net benefit for biodiversity to which limited weight can be attached.

Secondary school

- 55 There is a need for additional secondary school spaces in the town in the future, and by facilitating the delivery of a new secondary school the application proposal would address this future need, and would also satisfy the secondary education demand likely to arise from the development itself. Moreover, no other site has been identified to potentially deliver a new secondary school. This factor should be given significant weight in the proposal's favour.

Medical centre

- 56 In terms of the medical centre provision, even though this was determined under a different planning permission, a significant contribution (in excess of £400k) was made by the landowner (Cooper Estates) to the KCC enable the land associated with the medical centre application to be sold to the National Health Service to facilitate the development. It was originally envisaged for the medical centre to be incorporated with this planning permission, however the NHS wanted to advance the development to ensure funding for the development could be secured. Both the medical centre and this proposal have been designed to link together. Whilst planning permission is already been granted, very limited weight can be attributed to the connections between the two sites.

Highways

- 57 In traffic and transport terms, it is acknowledged that there would be increased traffic on the local highway network, and an increased demand for parking. Having had regard to the proposed contributions towards various junction improvements, and the TRO review, it is concluded on this consideration is that there would be no materially adverse impact on traffic, transport, parking and safety matters. With this fairly neutral conclusion, it is not considered that these points add any weight in support of the proposal.

Accessibility to sustainable transport

- 58 The proposal would seek to significantly improve the accessibility to the Edenbridge Town train station, through providing parking spaces to the northern platforms, which currently has no level access, as it is only accessible via steps down and up via an underpass. The proposal would also contribute one million pounds to Network Rail to provide a bridge over the

railway line to again improve level access to the station. Improvements for accessibility to the train stations in Edenbridge was identified under the Sevenoaks Infrastructure Delivery Plan and therefore these works and contributions would hold significant weight.

Economic and social benefits

- 59 The proposal would, however, clearly satisfy the economic and social objectives of sustainable development. Some of the matters that make up these objectives, such as the delivery of market and affordable housing have already been accounted for. However, there are other areas of benefit, not specifically included above, such as the detailed economic benefits which would arise in terms of new jobs; a significant amount of “first occupation expenditure” and additional local expenditure, Council Tax payments, and CIL payments. It should be noted that the scheme will provide a dual use scout hall and allotments. These matters add limited weight in support of the application proposal.
- 60 Therefore after balancing all these various factors against the substantial to the harm to the green belt, I am satisfied that a case of very special circumstances exists in supporting this scheme given in will clearly provide evidenced and required infrastructure to meet the needs of Edenbridge going forward.

Conclusion

- 61 The report above identifies the many benefits that the proposals would bring to the site and to the landscape. While local concerns exist in particularly in terms of highways impacts of the development, it has been found that these impacts can be appropriately mitigated by conditions and planning obligations, which would result in highway and pedestrian safety being preserved, and the development would amount to a less than ‘severe’ impact on the highway in terms of its assessment under NPPF paragraph 111.
- 62 In summary, although substantial weight has to be given to the Green Belt by reason of inappropriate development and the impact on openness, it is considered that that this can be clearly outweighed by the significant and in some regards unique benefits of the application proposal, as detailed above. As such, it is concluded that very special circumstances exist, which would justify this development in the Green Belt.
- 63 The proposal would secure the provision of some infrastructure on site as required by planning policy and this would have notable public benefits. There are requests for further obligations by KCC, but it is has not been demonstrated that these would comply with S122 of the CIL Regulations. The provision of this additional infrastructure if required, could be secured via CIL and the mechanisms currently in place would ensure that the risk of not gaining this funding would be minimised.

64 It is recommended that the application be approved and planning permission be granted subject to the conditions and legal agreement detailed above.

Background papers

Site and block plan

Contact Officer(s):

Extension: 01732 227000

Richard Morris
Chief Planning Officer

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tel: [REDACTED]
ask for: [REDACTED]
email: [REDACTED]
our ref: NST/PH/KEN002:001012
your ref:
date: 2 February 2022

Dear Beth

SE/20/02988/OUT - Four Elms Sevenoaks s106

1. Please find enclosed KCC's comments on the current draft s106 agreement, in as far as it does secure contributions towards KCC services. Please note that the comments are being provided on the basis set out below.

Failure to take into account a material planning consideration

2. It is noted with concern that KCC's requirements were not reported in the committee report. KCC's assessment of the impact of the development that would need to be alleviated in order to make it acceptable in planning terms was clearly set out in their consultation response dated 11 November 2020 ('Request Letter'). The contributions sought were all set out on a per Dwelling basis, but the application was reported to planning committee without any reference to KCC requirements. Section 70(2) of the Town and Country Planning Act 1990 inter alia requires a decision maker to take all material considerations into account. I refer you to *Bolton Metropolitan Borough Council v SSE (1990) 61 P & CR 343*.
3. KCC consider that there is a real possibility that had the failure to mitigate the impact of this development been fully explained to members of the planning committee, the application for planning permission may have been refused. The planning committee ought to have taken into account KCC's requests for contributions and may well not have approved the application had it been fully apprised of the facts.
4. The total contributions sought amount to approximately £1.9m towards secondary education, secondary education land, community learning, youth services, libraries, social care and waste. These are not trivial or of small importance in relation to the decision to grant planning permission for this development. KCC is a statutory consultee and their representations and requirements should have been properly reported to the planning committee. It is currently only proposed to safeguard the secondary school site in the section 106 and none of the other contributions.

CIL/s106

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5. Sevenoaks' position is wrong as a matter of law to assert that Sevenoaks, as a CIL charging Authority, it would not be reasonable agree to secure other financial contributions being paid for County Council infrastructure pursuant to a s106 (see paragraph 275) . The Community Infrastructure Levy Amendment Regulations 2019 made a number of changes to the operation of the CIL and s106 planning obligations. The regulations allow both CIL and contributions to be secured under s106 for the same infrastructure project, whilst the tests in regulation 122 CIL continue to apply. I again refer you to the DfE Developer Contributions Guide and Gloucestershire Appeal decision (enclosed with this letter - see para 75) where this is made abundantly clear.
6. It is KCC's view that Sevenoaks' position in this regard is completely untenable as a matter of law, following the position they adopted at the recent Former Broke Hill Golf Club Public Inquiry. In respect of that appeal, KCC entered into a s106 agreement with the developer to secure the contributions needed to make that scheme acceptable in planning terms. KCC was represented by leading counsel at that Inquiry and Sevenoaks' counsel did not make any representations to the Inspector to the effect that the contributions being secured by way of a s106 alongside the CIL Charging regime was not permissible as a matter of law.
7. The starting point is to look at what infrastructure is required to make this development acceptable in planning terms. The next question is if CIL can deliver all of the infrastructure requirements. KCC's position is that there is no guarantee that CIL receipts will as a matter of fact alleviate the impact of this development on County services. There is no need to look at the estimated CIL receipt figures for this purpose, because without certainty that KCC will actually receive the monies that make this development acceptable in planning terms, whether from CIL or through a planning obligation, this development is unacceptable/not sustainable.
8. Given that it is not possible to give such a guarantee through CIL receipts now, as none of the infrastructure that is currently sought by KCC is identified in Sevenoaks' Annual Infrastructure Funding Statement, which sets out details of the infrastructure projects or types of infrastructure that Sevenoaks intends to fund wholly or partly through CIL, KCC objects to the development.
9. Notably, none of the purposes towards which KCC seeks contributions are stated to be a priority in Sevenoaks' most recent Infrastructure Funding Statement ('IFS') (April 2020-March 2021). Remarkably, key services that KCC has a statutory duty to provide to residents in Sevenoaks are not stated to be a priority e.g. education in the IFS. Sevenoaks failure to ensure that the impact of every development in the area alleviates its own impact is therefore a systemic issue.
10. I am informed that a meeting took place between senior officer of Sevenoaks and Kent in December 2021. Whilst the discussions were positive, they did not conclude with a firm commitment to address the issues outlined in this letter. KCC very much wish to continue to engage with Sevenoaks to address the issues outlined in this letter, but that is likely to take time. As KCC have been asked to comment on this s106, I have been instructed to set out KCC's position to you by way of this letter now.
11. During the meeting that took place in December, two points were made, which I would like to take the opportunity to address. Firstly, Sevenoaks' officers were of the view that KCC treats Sevenoaks differently to other districts in the county in respect of their approach to securing planning obligations. As an example, Canterbury City Council was referred to.

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12. However, on closer examination the position in Canterbury CC, is very different to that in Sevenoaks. Canterbury CC has an adopted Local Plan which provides for s106 obligations to be entered into on strategic sites (as the Four Elms site would be considered). No reliance is placed on Canterbury's CIL Charging Schedule to fund development in respect of strategic sites. KCC therefore always secures contributions in respect of strategic sites in Canterbury. This is in stark contrast to the position in Sevenoaks where reliance is placed wholly on their CIL Charging Scheme to secure contributions towards all types of development.
13. The second issue that was raised during the meeting between officers in December 2021 was that KCC's stance towards s106/CIL has changed in respect of Sevenoaks. However, it is important to appreciate that Four Elms is one of the first strategic sites to come forward in recent years, which is why the issue has arisen now. Secondly, the legislative regime changed in 2019, as outlined in paragraph 5 above, but Sevenoaks appear to have failed to properly consider the current legislative framework that clearly allows for both CIL charges to be levied and s106 contributions to be sought and secured, where appropriate.
14. Without the s106 contributions that are required by KCC and secured by way of a s106 agreement, KCC considers that this development is unacceptable in planning terms, and objects to the grant of planning permission.

Action KCC invites you to take

15. KCC therefore invites the District Council to take this application back to committee to address the failures identified above and requests confirmation thereof on or before Friday, 11 February 2022, please.

Negotiation

16. KCC appreciates the opportunity for ongoing dialogue agreed between officers, and in particular, the plan to hold a specific workshop before 11 February 2022 with a view to resolving the issue.

If KCC do not hear from you within the aforementioned timescales with confirmation as requested, I have been instructed to provide a copy of this letter to the solicitors acting for the developer so that they are aware of KCC's position.

I look forward to hearing from you.

Yours sincerely


**Principal Lawyer
For Invicta Law**

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DEVELOPMENT CONTROL COMMITTEE**MONDAY 21st MARCH 2022****LATE OBSERVATION SHEET****4.1 19/05000/HYB - DSTL Fort Halstead, Crow Drive, Halstead, Sevenoaks KENT
TN14 7BU**

On 15 March we received a further letter from KCC together with attachments relating to this proposal. A copy of the letter is attached for information excluding the attachments.

This letter gives an update on their request for items they consider must be provided within a planning obligation and which is summarised below.

It also raises a number issues about the assessments set out in the committee papers relating to CIL, S106 and the infrastructure needs of the proposal.

Summary of infrastructure and contributions required.

The letter attached partially updates the infrastructure contributions KCC are seeking but only in relation to education provision. A comparison of the contributions requested in 2019 and 2022 are set out below.

Infrastructure sought	2019 letter (750 residential units) Total sum sought in £	2022 letter (635 residential units) Total sum sought in £
Primary education	4,134,111	None
Primary school land	1.6ha parcel of land on site	1.6ha parcel of land on site
Secondary education	2,885,499	3,286,760
Secondary school land	2,016,451	2,789,485.1
Special education	None	391,991.85
Community learning	12,315	12,315
Youth services	49,125	49,125

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Appendix

Libraries	41,588	41,588
Social care	61,890	61,890
Waste	178,155	178,155
TOTAL £	9,379,134	6,811,301.05

There have been some significant changes to the education infrastructure that KCC states is required, between 2019 and 2022, though other contributions have not been revisited, despite the reduction in residential units on site.

There are attachments and other details that set out more information on these requirements.

Other issues raised.

The letter raises other issues, which are summarised below:

- KCC believe that SDC is of the view that it cannot and should not require educational contributions in addition to CIL and that this would be clearly wrong,
- If SDC is not going to guarantee financial provision for the KCC requirements through CIL then this will need to be provided through a S106 Agreement.
- If the above requirement is not met, then it would be unlawful to proceed.
- KCC's 2019 letter (for the larger scheme) was not referred to in the original committee report.
- Now that SDC have the up-to-date position (set out in this letter dated 15 March 2022) this would have to be reflected in the S106 Agreement.
- The developer should be required to pay for the school places generated by the development. If not, this will be challenged.
- There should be a recommendation to ensure that the full education contribution is provided.
- The minimum requirement for land for a school is 1.6ha to allow for future education planning need.
- If being reported back to committee, a draft copy of the committee report should be provided to KCC before it is publicly available.
- To notify KCC immediately if SDC consider the Regulation 122 tests are not met and allow them 10 working days to respond.

The letter is supported by a legal opinion.

Assessment

The letter and attachments raise a variety of complex issues. It was received at a late stage in the application process.

Officers consider that it would be appropriate for all information provided by KCC to be given full, due consideration. Currently, there are areas of disagreement on the issues raised by KCC. It is appropriate for the Council to make a planning judgement when considering the needs for infrastructure and the impact this would have on viability. This question needs to be reconsidered in light of the additional representations submitted. The changes in requirements provided by KCC will also need to be re-considered to assess if they meet the Regulation 122 test: to be necessary to make the development acceptable, directly related to the development and fairly and reasonably related in scale and kind to the development.

Initial informal legal advice has been sought. However, Officers have not been able to fully consider and assess the issues raised and their implications or obtain detailed legal advice on these matters. The applicant has been made aware of the correspondence but has not had time to fully consider the request or their response either.

The most robust way to respond to the issues raised by KCC would be for the Council to seek formal legal advice; to allow the applicant time to do the same if they wish; and to report the application back to Development Control Committee once the advice has been considered and taken into account.

Members will then be able to consider the application afresh with all the information they need to make a properly informed decision.

Amended Recommendation:

That the application be deferred for consideration of the latest information received and reported back to Development Control Committee in due course.

4.2 20/02988/OUT - Land North of Town Station Cottages, Forge Croft, Edenbridge, KENT TN8 5LR

On 17 March 2022 we received a further letter from KCC, together with attachments relating to this proposal. A copy of the letter is attached for information excluding the attachments.

Their letter gives an update on their request for items they consider must be provided within a planning obligation and which is summarised below.

It also raises a number concerns about the assessments set out in the committee papers relating to CIL, S106 and the infrastructure needs of the proposal.

Summary of infrastructure and contributions required.

The letter attached partially updates the infrastructure contributions KCC are seeking, but only in relation to education provision. A comparison of the KCC requests for contributions in 2020 and 2022 are set out below.

Infrastructure sought	2020 letter Total sum sought in £	2022 letter Total sum sought in £
Primary education	None	None
Primary school land	None	None
Secondary education	1,759,840	1,759,840
Secondary school land	5.3 hectare parcel of land on site	5.3 hectare parcel of land on site
Special education	None	209,885.40
Community learning	5,582.80	5,582.80
Youth services	22,270	22,270
Libraries	18,853	18,853
Social care	49,939	49,939
Waste	62,477.80	624,47.80
TOTAL £	£1,918,932.60	£2,128,818

There have been some changes to the education infrastructure that KCC states is now required, though the request for special education £209,885.40 towards Milestone Academy Special School expansion in New Ash Green. In addition, KCC have clarified that secondary education contribution, rather than being used District wide for a new school, would now be requested to be used *“towards a new Secondary School on the proposed site or for additional secondary provision within Sevenoaks District.”*

There are attachments that set out more information to justify these requirements.

Other issues raised.

The KCC letter also raises a number of other concerns, which are summarised below:

- KCC believe that SDC’s approach to not require educational contributions within the Section 106, rather than being covered by CIL is clearly,
- If SDC is not going to make financial provision for the KCC requirements through CIL, then this will need to be provided through a S106 Agreement.
- If the above requirement is not met, then it would be unlawful to proceed.
- Now that SDC have the up to date position (set out in this letter dated 17 March 2022), this would have to be reflected in the S106 Agreement.
- Suggest that Section 106 agreement is amended, to require any potential shortfall with CIL to be picked up and covered by a Section 106 contributions

The letter is supported by a legal opinion.

Assessment

The letter and attachments raise a variety of complex issues. It was received at a late stage in the application process.

Officers consider that it would be appropriate for all information provided by KCC to be given full, due consideration. Currently, there are areas of disagreement on the issues raised by KCC. It is appropriate for the Council to make a planning judgement when considering the needs for infrastructure and the impact this

Agenda Item 3.1

Appendix

would have on viability. This question needs to be reconsidered in light of the additional representations submitted. The changes in requirements provided by KCC will also need to be re-considered to assess if they meet the Regulation 122 test: to be necessary to make the development acceptable, directly related to the development and fairly and reasonably related in scale and kind to the development.

Initial informal legal advice has been sought. However Officers have not been able to fully consider and assess the issues raised and their implications or obtain detailed legal advice on these matters. The applicant has been made aware of the correspondence but has not had time to fully consider the request or their response either.

The most robust way to respond to the issues raised by KCC would be to for the Council to seek formal legal advice; to allow the applicant time to do the same if they wish; and to report the application back to Development Control Committee once the advice has been considered and taken into account.

Members will then be able to consider the application afresh with all the information they need to make a properly informed decision.

Amended Recommendation:

That the application be deferred for consideration of the latest information received and reported back to Development Control Committee in due course.



Economic Development

Sevenoaks District Council
Development Management (Planning)
Argyle Road
Sevenoaks
Kent TN13 1HG

Invicta House
County Hall
Maidstone
ME14 1XX

FAO: Sean Mitchell

Phone: [REDACTED]
Ask for: [REDACTED]
Email: [REDACTED]@kent.gov.uk

17 March 2022

Your Ref: SE/20/02988/OUT
Our Ref: K/E/ SE/20/02988/OUT RJK

Dear Sean,

Planning Application: SE/20/02988/OUT – Land North of Town Station Cottages, Edenbridge Provision and Delivery of County Council Community Services:

We understand that Sevenoaks District Council (“SDC”) will consider this application afresh at its next planning committee on 21 March 2022. Please find attached our up-to-date assessment of education requirements arising from this development based on the outline application for 340 dwellings and our most up to date review of school spaces. In short, up to 68 additional secondary school places are required to serve this development, along with contributions towards the costs of extra SEN provision, and appropriate land for a new secondary school are required. This letter just addresses the need for education contributions (all other requirements for contributions to KCC infrastructure and services remain as in our earlier statutory consultation response dated 11 November 2020).

The Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (the CIL Regulations) (Regulation 122) require that requests for development contributions of various kinds must comply with three specific legal tests:

1. Necessary,
2. Related to the development, and
3. Reasonably related in scale and kind

Agenda Item 3.1

These tests have been applied in the context of this planning application and give rise to the following specific education requirements (the evidence supporting these requirements is set out in the attached Appendices). We rely on our earlier letter for all other contributions.

Requirement Summary (see addendum information page 8)

	Per Applicable House (x 340)	Per applicable flat (0)	Total (assessment totals based on all dwellings being houses as per application detail)	Project
Secondary Education (build costs)	£5,176.00	£1,294.00	£1,759,840.00	Towards a new Secondary School on the proposed site or for additional secondary provision within Sevenoaks District
Secondary Land	The proposed safeguarding of a site for a new Secondary school of 5.3 ha is noted.			
Special Education	£617.31	£154.33	£209,885.40	Towards Milestone Academy Special School expansion, New Ash Green DA3 8JZ

'Applicable' excludes: 1 bed units of less than 56 sqm GIA, and any sheltered accommodation.

Please note:

- that the figures for Secondary Education are to be **index linked by the BCIS General Building Cost Index from April 2020 to the date of payment** (Apr-20 Index 360.3)
- that the figures for Special Educational Needs and Disabilities are to be **index linked by the BCIS General Building Cost Index from Qtr 4 2020 to the date of payment** (Q4 2020 at 364).
- are valid for 3 months from the date of this letter after which they may need to be recalculated due to changes in district council housing trajectories, ongoing planning applications, changes in capacities and forecast rolls, projects and build costs.

Justification for infrastructure provision/development contributions requested

The County Council has modelled the impact of this proposal on the provision of its existing services and the outcomes of this process are set out below and in the attached appendix.

Secondary School Provision

The impact of this proposal on the delivery of the County Council's services is assessed in Appendix 1.

A contribution is sought based upon the additional need required, where the forecast secondary pupil product from new developments in the locality results in the maximum capacity of local secondary schools being exceeded.

The proposal is projected to give rise to up to 68 additional secondary school pupils from the date of occupation of this development. This need can only be met through the provision of a new Secondary School on land proposed in the application or, in accordance with DfE Guidance Securing development contributions 2019 para 20, the contingency will be through additional secondary provision within Sevenoaks District.

The new secondary school accommodation will be delivered in accordance with the Local Planning Authority's Infrastructure Delivery Plan (where available and up to date); timetable and phasing.

Please note this process will be kept under review and may be subject to change as the Local Education Authority will need to ensure provision of the additional pupil spaces within the appropriate time and at an appropriate location.

As stated by KCC's Area Education Officer for Sevenoaks in his 12th February 2021 letter to the applicant, there may be the possibility that the school build would be funded by the Department for Education (DfE), but this is by no means guaranteed. As such, any s.106 agreement for this development would specify a clause that the applicant's secondary education build contribution would be passed onto the DfE towards the overall build costs.

Proposed school site

KCC's requirement is for the land for the secondary school to be transferred to KCC at nil cost and according to our General Transfer Terms (attached). The secondary school site should be centrally located within the development to provide good accessibility, and to encourage active travel. The site should be level and of regular shape.

It is noted that the masterplan suggests use of school playing fields for formal play by the public outside of regular school hours. This is a concern in terms of school site security, including the costs of additional secure fencing and other security measures

Agenda Item 3.1

to demarcate the school buildings from public access, as well as the logistical management and staffing to allow facilities for dual use. There is also the concern that the quality of the pitches would deteriorate more quickly with formal public access and require additional, costly maintenance. Also, pitches open to the public are likely to lead to unofficial use, such as dog walking and potential 'fouling' of sports pitches. This would incur health concerns and additional management of playing fields to ensure pitches are clear of hazardous litter. The provision of secondary sports pitches should be as per the requirements set out in Building Bulletin 103 or subsequent bulletins.

Primary Education

There is currently no need for more spaces within the assessed education planning groups.

Special Education Needs and Disabilities provision¹

The Children's and Families Act 2014 and accompanying Code of Practice sets out the system for children and young people with special educational needs and disability (SEND) aged 0-25 years. KCC's SEND Strategy sets out its vision and priorities in respect of this area of its service.

The number of children and young people with SEND in Kent is 13.4% of the total school population (January 2019). The majority are educated in mainstream school environments. However, children with more complex needs are supported through an Education, Health and Care Plan (EHCP) which sets out the provision they are entitled to. January 2020 figures for Kent show that 4.2% of the total school population had an EHCP. The proportions have been rising both in Kent and nationally and this trend is set to continue. However, for the purposes of s.106 contributions, KCC is working to the national figure of 3.7%. In addition, the change in legislation in 2014 placed a duty on Local Authorities to maintain an EHCP until a young person reaches the age of 25 years, in appropriate cases.

School-age pupils with EHCPs are educated in mainstream school classes, in Specialist Resourced Provisions (SRPs) on mainstream sites, and in stand-alone special needs schools.

To take account of the provision types, the local KCC has applied a blended build cost of £45,916 per pupil place has been applied. This is the rate used in conjunction with the SEN Pupil Product Ratios for this request and accompanying assessment (Appendix 1a). The SEN pupil product ratios are 0.0134 per house and 0.0033 per applicable flat. In comparison, please note that the [National School Delivery Cost Benchmarking Study \(May 2021\)](#) published by the Education Building and Development Officers Group (EBDOG)² identifies the SEN special school expansion cost of £76,184 per pupil place.

¹ SEND figures and data are provisional and subject to final check.

² EBD OG is a national body, representing Local Authorities on all issues associated with education, property and capital planning.

Para 17 of the DfE's Securing Developer Contributions for Education 2019 states '*...We recommend that developer contributions for special or alternative school places are set at four times the cost the mainstream places, consistent with the space standards in Building Bulletin 104*'.

The proposal gives rise to additional pupils with Education and Health Care Plans (EHCP's) requiring extra support through specialist provision. This need will be met, as with other new developments in the vicinity, through additional provision at Milestone Academy Special School, New Ash Green DA3 8JZ and a contribution is therefore required of **£617.31 per 'applicable' house and £154.33 per 'applicable' flat.**

Implementation

The County Council is of the view that the above contributions comply with the provisions of CIL Regulation 122 and are necessary to mitigate the impacts of the proposal on the provision of those services for which the County Council has a statutory responsibility. Accordingly, the County repeats its request that the Local Planning Authority seek a section 106 obligation with the developer/interested parties prior to the grant of planning permission. The obligation should also include provision for the reimbursement of the County Council's legal costs, surveyors' fees and expenses incurred in completing the Agreement, and County monitoring fee of £500 for each trigger within the Agreement.

We have obtained counsel's advice, which we enclose with this letter, and ask that the planning committee on 21 March 2022 is made aware of this updated request and the legal advice we have received.

Yours sincerely

[Redacted Signature]

Development Contributions
Kent County Council

Cc

[Redacted Recipient Name]

KCC, Education & Communities,
File

Appendices:

The following Appendices contain the technical details of the County Council's assessment process.

1. Education Assessment

Agenda Item 3.1

- 1a. Secondary & SEND School Build Costs
2. KCC General Land Transfer Requirements

Addendum - Development Contributions Rates information

Secondary Education

The rates for secondary referred to in the table (page 2 of this letter) were introduced in February 2018, following approval by the Infrastructure Funding Group (19 December 2017). The rates have since been updated in line with inflation, with indexation now based at April 2020. The latest ECP (2022-26) records a slightly different rate to what we have been requesting (see table below). This is because KCC Property has undertaken an extensive review of its own build costs for projects completed and benchmarked these against projects nationally.

The secondary requirement in relation to Four Elms is for a newly built school, which is assessed at per pupil cost of £25,880.00. The Education Assessment methodology works on the basis that each house in a development will produce 0.2 pupil product and each flat 0.05. These are KCC adopted Pupil Product Ratios (PPRs). Multiplying each of these PPR figures by the cost per pupil place provides for the new build secondary education rate of £5,176.00 per house and £1,294.00 per flat.

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DEVELOPMENT CONTROL COMMITTEE

Monday 21st March 2022

ADDITIONAL LATE OBSERVATION SHEET

**4.2 20/02988/OUT - Land North of Town Station Cottages, Forge Croft,
Edenbridge, KENT TN8 5LR**

LATE OBSERVATIONS

4.2 Land North of Town Station Cottages, Forge Croft, Edenbridge 20/02988/OUT

Since the publication of the Late Observation papers on Friday 18 March 2022, we have received two additional letters from local residents, raising the following matters:

- *The number of parking spaces for Town Station Cottages within the Heads of Terms of the Section 106 has increased from 6 to 12 parking spaces for local residents*

This is indeed correct and was reported in the Late Observations papers to the September 2021 DC Committee. Therefore the Heads of Terms of the Section 106 within the main papers should and paragraph 29 should read “*provision 12 of land and creation of 12 parking spaces for use by residents of Town Station Cottages*”.

- *Objections to scheme on green belt grounds and to the case of very special circumstances raised.*

These matters have been covered in the officer’s report, either within the original officers report dated the 30 September 2021 and the additional report dated the 21 March 2022. The site is still green belt, even though there is a resolution to grant planning permission, the green belt assessments still have been carried out and a case of very special circumstances needs to be demonstrated.

Amended Recommendation:

Agenda Item 3.1

That the application **be deferred** for consideration of the latest information received as stated in the first set of late observations for this site and reported back to Development Control Committee in due course.

5.1 - TPO 3 of 2022

PROPOSAL: TPO 3 of 2022 was served in response to the continued development proposals to the site that took little or no regard for the woodland setting and the amenity benefits that it offered.

LOCATION: Bluebell Paddock is situated to the west of the A227 Gravesend Road, Hodsoll Street, between Oak Farm House and Rough Lea.

WARD(S): Hartley & Hodsoll Street.

ITEM FOR DECISION

TPO 3 of 2022 has been served to avoid unnecessary tree removals as a result of the possible development and formalisation of the site.

RECOMMENDATION: That TPO 3 of 2022 is CONFIRMED WITHOUT AMENDMENT.

Description of Site

- 1 The woodland area as described above consists of mixed deciduous woodland with underlying scrub. A wooden gate entrance is located to the northern frontage with a wide track leading from it to the rear of the site and an open space which is fairly void of trees.

Constraints

- 2 The following constraints apply:
 - TPO 03 of 2022.
 - Ancient & Semi-Natural Woodland
 - Metropolitan Green Belt.

Amenity Value and Visibility of the woodland.

- 4 This small private woodland is located to the east of the A227 Gravesend Road. The dense mixed species foliage is growing up to the highway and as such is clearly visible to passers-by from the busy "A" road and by local residences.

Representations

- 5 One objection to the order has been received from a Mr Tony Searles, the agent for Mr T Hilding, the owner.
- 6 Mr Searles objection is in three parts;
 1. The provisional order covers a blanket area that no trees exists on

Agenda Item 4.1

2. The area that has the trees within has several diseased and dead trees.
3. The amenity value of the trees is subjective and has not been fully assessed.

Appraisal.

Consideration of Objections.

- 7 1. An area to the rear of the land known as Bluebell Wood is fairly devoid of trees. This area was included within the "Woodland" order as the land is designated as Ancient and Semi Natural Woodland. The Ancient Woodland designation not only refers to trees, the soil with its seed bank and fungal spores are also important. There is therefore the potential that if left alone that regeneration will occur. A TPO can protect existing trees as well as the potential for new growth and future trees. This site currently has in excess of 20% tree coverage.
- 8 2. Trees requiring pruning or removal would first require a formal application to proceed. Removal of trees other than if dead or diseased are subject to a short application process for officers to view and agree if justified. Reasonable management of the trees would be looked on favourably.
- 9 3. Having visited this site a number of times to make an assessment of previous planning applications. I have made myself aware of the general condition of the woodland and its visibility within the public realm and public vantage points. If the trees were to be removed and transformed into a formal space, even over a period of time. I suggest that it would be to the detriment of the local area and the street scene.

Conclusion.

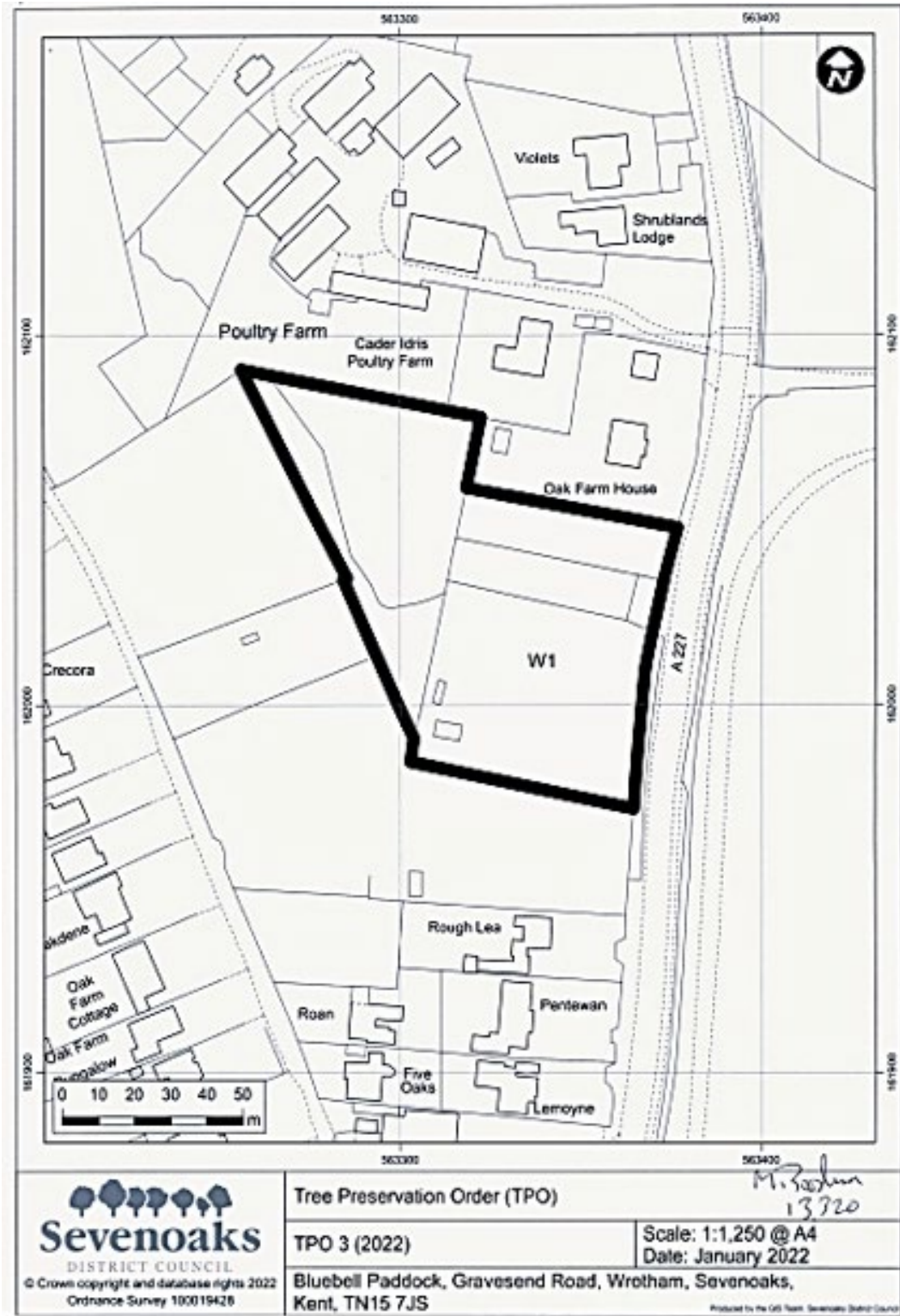
- 10 It is therefore my recommendation that TPO 3 of 2022 be confirmed without amendment.

TPO plan and Schedule 1 attached as (Appendix 1).

Contact Officer

Les Jones 01732 227000

Richard Morris
Chief Planning Officer



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Ordnance Survey 100019428

Tree Preservation Order (TPO)

TPO 3 (2022)

Bluebell Paddock, Gravesend Road, Wrotham, Sevenoaks,
Kent, TN15 7JS

Scale: 1:1,250 @ A4
Date: January 2022

Produced by the GIS Team, Sevenoaks District Council

SCHEDULE 1		
SPECIFICATION OF TREES		
Trees specified individually (encircled in black on the map)		
<i>Reference on Map</i>	<i>Description</i>	<i>Situation*</i>
Trees specified by reference to an area (Within a dotted black line on the map)		
<i>Reference on Map</i>	<i>Description</i> None	<i>Situation*</i>
Groups of trees (Within a broken black line on the map)		
<i>Reference on Map</i>	<i>Description</i> None	<i>Situation*</i>
Woodlands (Within a continuous black line on the map)		
<i>Reference on Map</i>	<i>Mixed tree species</i>	<i>Situation*</i> Bluebell Paddock, Wrotham Road.
W1		
<p>* complete if necessary to specify more precisely the position of the trees.</p>		

Planning Application Information on Public Access - for applications coming to

DC Committee on Thursday 28 July 2022

**3.1 20/02988/OUT- Land North Of Town Station Cottages, Forge Croft, Edenbridge KENT
TN8 5LR**

[Link to application details:](#)

[Link to associated documents:](#)

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