

## REPORT SUMMARY

11 January 2017

<b>REFERENCE NO - 16/505401/FULL</b>			
<b>APPLICATION PROPOSAL -</b> Erection of 13 dwellings and garages with associated access and landscaping.			
<b>ADDRESS –</b> Vicarage Field At Wares Farm, Linton Hill, Linton, Kent			
<b>RECOMMENDATION A:</b> DEFER a decision for one committee cycle to allow further time for the submission of further information to allow compliance with Local Plan policy SP20 (parts 2 (i) and (ii)) to be considered			
<b>RECOMMENDATION B:</b> Subject to the prior completion of a legal agreement to provide for the Heads of Terms set out at the end of this report and subject to the conditions set out at the end of this report, the Head of Planning and Development <b>BE DELEGATED POWERS TO GRANT</b> to grant planning permission, and to be able to settle or amend any necessary Heads of Terms and planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.			
<b>REASONS FOR COMMITTEE GOING AGAINST OFFICER RECOMMENDATION :</b> The draft minutes record the following: <i>"In making this decision, Members noted that none of the statutory consultees had objected to the proposed development. It was considered that the development would result in less than substantial harm, and this should be weighed against the public benefit resulting from the enhancement of the Conservation Area through the high quality design of the proposed buildings and landscaping, the potential to secure a crossing in the village centre and the gain of this windfall site".</i>			
<b>REASON FOR REFERRAL BACK TO COMMITTEE -</b> The committee on the 30 November 2017 agreed to grant planning permission contrary to the recommendation of the Head of Planning and Development, subject to the Heads of Terms and conditions being reported back to the Committee for approval.			
<b>WARD</b> Coxheath And Hunton	<b>PARISH/TOWN COUNCIL</b> Linton	<b>APPLICANT</b> Countryside Properties Ltd. <b>AGENT</b> DHA Planning	
<b>DECISION DUE DATE</b> 17/10/16	<b>PUBLICITY EXPIRY DATE</b> 19/08/16	<b>OFFICER SITE VISIT DATE</b> 28/10/2016	
<b>RELEVANT PLANNING HISTORY:</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
14/504148/FULL	Erection of 14 detached dwellings together with new access and areas of landscaping.	Withdrawn	21.08.2015
TA/0146/08	An application for consent to fell and take out stumps of two Chestnut trees which have coppiced on their own, subject to Tree Preservation Order 21 of 1976	Approved	14.01.2009
TA/0147/08	Notification of intention to lower, road-side hedge, down two or three feet to the original size; the hedge being located within Linton Conservation area	No Objection	23/12/2008

## **MAIN REPORT**

### **1.0 BACKGROUND**

- 1.01 The planning committee on the 30 November 2017 agreed to grant planning permission contrary to the recommendation of the Head of Planning and Development. Members agreed to grant permission subject to the Heads of Terms and conditions being reported back to Committee for approval.

### **2.0 APPRAISAL**

#### **Main Issues**

- 2.01 The key issues for consideration relate to:
- Planning obligations and the Community Infrastructure Levy Regulations;
  - Affordable housing;
  - KCC - Primary Education;
  - KCC - Secondary Education;
  - KCC – Libraries;
  - NHS West Kent Clinical Commissioning Group.

#### **Planning obligations and the Community Infrastructure Levy Regulations**

- 2.02 Policy ID1 of the Local Plan relates to infrastructure delivery. In the event of competing demands for developer contributions towards infrastructure the Council's hierarchy of prioritisation set out in policy ID1 is: affordable housing, transport, open space, public realm, health, education, social services, utilities, libraries and emergency services.

- 2.03 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: The requests must be 1. Necessary, 2. Related to the development, and 3. Reasonably related in scale and kind.

- 2.04 In addition since 6th April 2015, section 123 of the CIL Regulations places a restriction on the number of different obligations (calculated back to April 2010) that relate to the funding or provision of an infrastructure project or type of infrastructure, ("the pooling restriction"). As such, the scope of contributions that can be requested in respect of new development is restricted. Affordable housing is excluded from this restriction.

- 2.05 The CIL 122 and 123 tests have been applied in the context of this planning application and the above planning obligations were found to be compliant with the Community Infrastructure Levy Regulations 2010 (Regulation 122). The planning obligations in the context of this planning application have been assessed against and were found to be compliant with the Community Infrastructure Levy Regulations 2010 (Regulation 123).

#### **Affordable housing**

- 2.06 The NPPF (Chapter 6) supports the delivery of a wide choice of high quality homes, this includes at paragraphs 47 and 50 the provision of affordable housing. Policy SP20 of the adopted plan states that on housing sites of 11 residential units or more, or which have a combined floor space of greater than 1,000m<sup>2</sup>, the council will require the delivery of affordable housing.
- 2.07 The applicant has indicated (e-mail dated 25 October 2017) that they would be prepared to pay an off-site contribution towards affordable housing in the region of £1,000,000. The off-site affordable housing contribution has been calculated by

officers using the applicant's open market value estimates and based on policy compliant on site provision and this would amount to a figure of £999,532.

- 2.08 Policy SP20 states that "Affordable housing provision should be appropriately integrated within the site. In exceptional circumstances, and where proven to be necessary, off-site provision will be sought in the following order of preference: i) An identified off-site scheme; ii). The purchase of dwellings off-site; or iii). A financial contribution towards off-site affordable housing..."
- 2.09 The applicant has chosen to provide large 4 and 5 bedroom family dwellings as part of the proposed development. As a result of the chosen dwelling size, the development is not considered by officers or the applicant to be suitable for on-site affordable housing. Local Housing Allowance restrictions that place a cap on the level of housing benefit that is available would mean that even with a financial subsidy and due to the value of the houses they would be unlikely to be affordable to those in need. The location of the development would also place a dependence on the use of the private car by future occupants which would further reduce affordability.
- 2.10 In accordance with policy SP20 when considering off site affordable housing when it has been established that on site affordable housing is not feasible on site , the next stage is for the purchase of dwellings off-site to be considered and lastly the payment of an off site contribution.
- 2.11 At a meeting on the 6 December 2017 and in accordance with Local Plan policy SP20 the applicant was requested to investigate the provision of an identified alternative off site scheme to provide affordable housing or the purchase of dwellings off site. At the time of writing no details have been submitted. In the absence of adequate evidence to show that the provision of an identified off-site affordable housing scheme or the purchase of dwellings off-site to provide affordable housing the proposal is considered contrary to Local Plan policy SP20.

#### Kent County Council

- 2.12 The County Council has assessed the potential impact of this proposal on the delivery of its community services. The County Council is of the opinion that the development will place additional demand on the delivery of its services and this will require mitigation either through the direct provision of infrastructure or the payment of an appropriate financial contribution. Potential obligations have been considered against the Community Infrastructure Levy (CIL) Regulations part 122 and 123.
- Primary Education
- 2.13 The proposal will result in to additional primary school pupils. This need, cumulatively with other new developments in the vicinity, can only be met through the enhancement of Boughton Monchelsea Primary School. In mitigation the County Council requires a financial contribution towards the enhancement/extension of Boughton Monchelsea Primary School at £2360.96 for each 'applicable' house.
- Secondary School Provision
- 2.14 Whilst Kent County Council Education Authority can demonstrate a forecast lack of provision which will require school expansions, due to the Government pooling restrictions the County Council can now not collect secondary contributions from every development, only those creating the largest amount of demand.
- Libraries
- 2.15 Kent County Council are the statutory library authority. The library authority's statutory duty in the Public Libraries and Museums Act 1964 is to provide 'a comprehensive and

efficient service'. The Local Government Act 1972 also requires KCC to take proper care of its libraries and archives. Bookstock in Maidstone Borough at 1119 items per 1000 population is below the County average of 1134 and both the England and total UK figures of 1399 and 1492 respectively.

- 2.16 To mitigate the impact of this development, the County Council will need to provide additional library books to meet the additional demand to borrow library books which will be generated by the people residing in this development. The County Council therefore requests £48.02 per household to address the direct impact of this development, and the additional stock will be made available locally as and when the monies are received.

#### NHS West Kent Clinical Commissioning Group

- 2.17 As of 1 April 2016, NHS West Kent Clinical Commissioning Group (CCG) took on responsibility for the delegated co-commissioning of primary care services in West Kent. We are now the body which will request Section 106 and Community Infrastructure Levy health care contributions on behalf of NHS England South (South East).
- 2.18 Inevitably any increase in the local population has an impact on provision of health care and NHS West Kent CCG would seek to apply this s106 contribution to meet these extra demands placed upon primary and community health service and to meet the needs of this population.
- 2.19 In terms of this particular application, a need has been identified for contributions to support the delivery of investments highlighted within the Primary Care Development Strategy and Estates Framework. These improvements to the primary care and out of hospital infrastructure will enable support for the registrations of the new population with a local practice, in addition to the commissioning and delivery of health services to all.
- 2.20 The proposed development is expected to result in a need to invest in the local surgery premises at The Orchard Medical Centre and the Stockett Lane Surgery. These surgeries are within a 2 mile radius of the development at Vicarage Field. This contribution will be directly related to supporting the improvements within primary care by way of extension, refurbishment and/or upgrade in order to provide the required capacity.
- 2.21 NHS West Kent CCG will continue to use NHS West Kent formulae for calculating s106 contributions. This has been used for some time and considered fair and reasonable. NHS West Kent CCG will not apply for contributions if the units are identified for affordable/social housing.
- 2.22 Where the application identifies unit sizes the predicted occupancy rates will be for a 4 bedroom unit @ 3.5 persons and for a 5 bedroom unit @ 4.8 persons. These occupancy rates are then multiplied by £360 per person to calculate a financial contribution. With the proposal providing 10 four bedroom (10 x 35 x 360) and 3 five bedroom units (3 x 14.4 x 360) the total financial contribution would be £17,784.

#### Requests from Linton Parish Council

- 2.23 The consultation response from Linton Parish Council requests that if minded to approve the application, off site s106 benefits should be secured.
- 2.24 These benefits include a pedestrian crossing on the A229 outside St Nicholas Church, and provision of a roundabout at the A229 and B2163 junction (0.7 miles to the north of

the site). With the distance between the application site and the church (480 metres), the relatively small number of dwellings and no issue raised by KCC Highways it is considered that a request for financial contributions towards a roundabout and the pedestrian crossing would fail to meet the necessary legal tests. These tests include a requirement that contributions are necessary to make the proposal acceptable in planning terms, directly related to the proposal and fairly and reasonably related in scale and kind to the proposal.

- 2.25 A recent supreme court judgement dated 25 October 2017 considered the legality of planning obligations: Aberdeen City and Shire Strategic Development Planning Authority v Elsick Development Company Limited (Scotland) [2017] UKSC 66. The judgement found that "...it was not within the power of the planning authority to require a developer to enter into such an obligation which would be irrelevant to its application for permission as a precondition of the grant of that permission".
- 2.26 The judgment also referred to Tesco Stores Ltd v Secretary of State for the Environment which found "...that for a planning obligation, which is to contribute funding, to be a material consideration in the decision to grant planning permission, there must be more than a trivial connection between the development and the intervention or interventions which the proposed contribution will fund". It is considered that due to the separation distance any link between the proposed development and the pedestrian crossing in the centre of Linton would be 'trivial'.
- 2.27 Linton Parish Council has requested that adequate pedestrian access is provided between the development site and the children's playground at the rear of the site. A planning condition is recommended that seeks details of a pedestrian boundary gate that will allow this access.

### **3.0 CONCLUSION**

- 3.01 The planning committee have resolved to grant planning permission for this development subject to suitable s106 planning obligations and planning conditions.
- 3.02 As set out above it is considered that the proposal does not comply with Local Plan policy SP20 in that the applicant has not provided any/satisfactory evidence to demonstrate that the provision of an identified off-site affordable housing scheme or the purchase of dwellings off-site to provide affordable housing is feasible. Recommendation A is to defer a decision for one committee cycle to allow further time for the submission of further information to allow compliance with Local Plan policy SP20 to be considered
- 3.03 If members consider that planning permission should be approved despite the conflict with policy SP20 Recommendation B sets out planning conditions and planning obligations that should be attached to this approval.

### **4.0 RECOMMENDATION**

**RECOMMENDATION A:** DEFER a decision for one committee cycle to allow further time for the submission of further information to allow compliance with SP20 (parts 2 (i) and (ii)) to be considered

#### **RECOMMENDATION B:**

Subject to the prior completion of a legal agreement to provide for the Heads of Terms set out below and subject to the conditions as set out below, the Head of Planning and Development **BE DELEGATED POWERS TO GRANT** to grant planning permission, and to be able to settle or amend any necessary Heads of Terms and planning

conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

#### Heads of Terms

- Financial of £999,532 towards off site affordable housing provision (this is on the basis that Members consider the applicant has complied with the requirements of policy SP20);
- Financial contribution of £30,692 (£2360.96 x 13) towards the enhancement of Boughton Monchelsea Primary School;
- *Financial contribution of £624 (£48.02 x 13)* to address the direct impact of this development on library provision;
- *Financial contribution of £17,784 towards the cost of the extension, refurbishment and/or upgrade of the local surgery premises at The Orchard Medical Centre and the Stockett Lane Surgery in order to provide the required capacity.*

#### Planning conditions

- (1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- (2) The development hereby permitted shall be carried out in accordance with the following approved plans: 21954A/01A (site location plan); 21954A/02A (topographical survey); 21954A/05 (existing site sectional elevation A-A); 21954A/06 (existing site sectional elevation B-B); 21954A/07 (existing site sectional elevation C-C); 21954A/08 (existing site sectional elevation D-D); 21954A/10C (site layout plan); 21954A/20A (plot 1 floor plans and elevations); 21954A/22A (plots 2 & 5 floor plans and elevations); 21954A/23A (plot 3 floor plans and elevations); 21954A/24A (plots 4 & 7 floor plans and elevations); 21954A/25A (plot 6 floor plans and elevations); 21954A/28A (plots 8, 11, 12 & 13 floor plans and elevations); 21954A/29 (double garage floor plan and elevations); 21954A/50A (proposed site sectional elevation A-A); 21954A/51A (proposed site sectional elevation B-B); 21954A/52A (proposed site sectional elevation C-C); 21954A/53A (proposed site sectional elevation D-D); SURV1780 (topographical survey - sheet 1 of 1 showing trees); SURV1780 (topographical survey - sheet 1 of 1 showing contours).

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

- (3) The development shall not commence until details of the proposed slab levels of the buildings and the existing site levels have been submitted to and approved in writing by the Local Planning Authority and the development shall be completed strictly in accordance with the approved levels.

Reason: In order to secure a satisfactory form of development. This information is required prior to commencement to ensure agreement of levels prior to work progressing on site.

- (4) The development shall not commence until details of decentralised and renewable or low-carbon sources of energy to be used as part of the approved development shall have been submitted to and approved in writing by the Local Planning Authority including details of how they will be incorporated into the development. The approved

measures shall be in place before first occupation of the development hereby approved and maintained as such at all times thereafter.

Reason: To secure an energy efficient and sustainable form of development in accordance with the NPPF. This information is required prior to commencement as construction works will reduce the range of renewable energy options that are available.

- (5) The development shall not commence until an arboricultural method statement (AMS) is submitted to and approved in writing by the local planning authority. The AMS shall include details of the phasing of the access road construction, arboricultural supervision and reporting during excavation (using hand tools only) and backfilling within root protection areas, and details of how any roots encountered during construction will be dealt with. The development shall be built in accordance with the approved AMS.

Reason: To ensure long term retention of trees. This information is required prior to commencement as any site works have the potential to damage trees.

- (6) Prior to commencement of development above damp-proof course (DPC) level, written details and samples of external building facing materials and areas of hardsurfacing including roads and pavements shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed using the approved materials and maintained as such thereafter.

Reason: To ensure a good quality appearance to the development.

- (7) Prior to commencement of development above damp-proof course (DPC) level, written details and samples of the materials to be used in the construction of boundary treatments between the approved dwellings and the development site boundary, and including a pedestrian gate from the development site to the playground at the rear of the site shall be submitted to and approved in writing by the Local Planning Authority. With the development proceeding in accordance with the approved details.

Reason: To ensure a good quality appearance to the development.

- (8) Prior to commencement of development above damp-proof course (DPC) level, details of refuse and cycle storage shall be submitted to and approved in writing by the Local Planning Authority. With the approved refuse and cycle storage in place prior to first occupation and maintained as such thereafter.

Reason: To ensure a good quality appearance to the development.

- (9) Prior to commencement of development above damp-proof course (DPC) level details of mitigation to protect future occupiers from road noise shall be submitted to and approved in writing by the Local Planning Authority with the submitted measures that shall meet the recommendations of the acoustic report carried out by Grant Acoustics, ref 13891SI (dated June 2014) in place and operational prior to first occupation of any residential unit hereby approved.

Reason: To ensure an adequate level of amenity for future residential occupiers.

- (10) Prior to commencement of development above DPC level an ecological enhancement strategy which details what enhancements are going to be implemented and where and how, shall be submitted to and approved in writing by the local planning authority

and shall include the following a) Provision of log piles for invertebrates; b) Areas of terrestrial habitat to include refuge piles, reptile hibernacula, foraging territories and opportunities for shelter; c) Installation of ready-made bird/bat boxes to mature trees; e) Provision of integral bird/bat bricks/boxes on northern elevation of buildings; f) Provision of hedgehog nesting boxes; g) Provision of 12cm square gaps under fencing to allow hedgehogs access into all garden areas. The development shall be built in accordance with the approved ecological enhancement strategy and all features shall be retained in that manner thereafter.

Reason: In the interests of biodiversity enhancement.

- (11) Prior to commencement of the development above damp proof course level hereby approved, a Landscape and Ecological Management Plan (LEMP) detailing the landscaping and ecological design and management for the site shall be submitted to and approved in writing by the local planning authority. The LEMP shall include the following: a) Purpose and conservation objectives of landscaping and ecological design b) Timetable for implementation, demonstrating that works are aligned with proposed phasing of construction; c) Description and evaluation of features to be managed; d) Details of measures to prevent damage to landscaping from car parking e) Appropriate management prescriptions for achieving aims and objectives; f) Preparation of work schedule (including annual work plan capable of being rolled forward over a 5-year period); g) Details of the body(/ies) or organisation(s) responsible for implementation of the LEMP; h) Ongoing monitoring and remedial measures. i) LEMP shall also include details of legal and funding mechanism(s) by which long-term implementation of plan will be secured by developer with the management body(ies) responsible for its delivery. The plan shall also set out (where results from monitoring show that conservation aims and objectives of LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The development shall be implemented in accordance with the approved LEMP details.

Reason: To ensure long term retention and management of landscaping and ecological design features. Reason: In the interests of biodiversity enhancement.

- (12) Prior to commencement of development above damp-proof course (DPC) level, details of a scheme of landscaping and a programme for the approved scheme's implementation and long term management shall be submitted to and approved in writing by the Local Planning Authority. The scheme of landscaping shall be designed using the principle's established in the Council's adopted Landscape Character Assessment 2012 and indicate which existing trees, hedgerows and landscaping are to be retained. The information should include management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned domestic gardens.

Reason: To ensure a good quality appearance and landscaped setting to the development.

- (13) All planting, seeding or turfing in the approved landscaping scheme shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner. Any seeding or turfing which fails to establish or any trees or plants which, within ten years from the first occupation of a property, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected, shall be replaced in the next planting season with plants of the same species and size as detailed in the approved

landscape scheme unless the local planning authority gives written consent to any variation.

Reason: To ensure a good quality appearance and landscaped setting to the development.

- (14) Any external lighting (whether temporary or permanent) installed on the site shall be in accordance with details that have previously been submitted to and approved in writing by the local planning authority. These details shall include, inter alia, measures to shield and direct light from the light sources so as to prevent light pollution and measures to ensure that there are no adverse impacts on foraging/commuting/nesting bats. The lighting shall be maintained in accordance with the approved details thereafter.

Reason: In the interest of residential amenity and biodiversity.

- (15) Prior to first occupation of any of the dwellings hereby approved footways, access, visibility splays, turning head and visitor parking shall be in place and ready for use that are in accordance with details that have previously been submitted to and approved in writing by the local planning authority with the approved details permanently retained.

Reason: In the interest of highway safety and parking provision.

- (16) Prior to the occupation of the development hereby permitted, a Travel Plan shall be submitted to and approved in writing by the local planning authority. It shall include: (a) Targets for sustainable travel arrangements; (b) Effective measures for the on-going monitoring of the Plan; (c) A commitment to delivering the Plan objectives for a period of at least 5 years from the first occupation of the development; and (d) Effective mechanisms to achieve the objectives of the Plan by both present and future occupiers of the development. The development shall be implemented only in accordance with the approved Travel Plan.

Reason: To promote sustainable travel measures.

- (17) Prior to the occupation of the dwellings hereby permitted, a minimum of one operational electric vehicle charging point for low-emission plug-in vehicles shall be installed at every residential dwelling with dedicated off street parking, and shall thereafter be retained and maintained for that purpose.

Reason: To promote reduction of CO2 emissions through use of low emissions vehicles.

- (18) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extension to any property shall be carried out without the permission of the Local Planning Authority.

Reason: To safeguard the character and appearance of the development and the enjoyment of their properties by existing and prospective occupiers.

- (19) Development shall not begin until a detailed sustainable surface water drainage scheme for the site, including arrangements to secure the outfall, has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall: (a) demonstrate that 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 with any offsite discharge limited to either QBAR or greenfield runoff rate as approved by the Local Planning Authority. (b) provide details of any works required for the proposed drainage system, including ditches, proposed headwalls, and ponds to be approved by the Local Planning Authority. (c) demonstrate how silt and pollutants resulting from the site use and construction can be adequately managed to ensure there is no pollution risk to receiving waters.

Reason: 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.

- (20) No building hereby permitted shall be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include: a) a timetable for its implementation, and b) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason: To ensure that any measures to mitigate flood risk and protect water quality on/off the site are fully implemented and maintained (both during and after construction), as per the requirements of paragraph 103 of the NPPF and its associated Non-Statutory Technical Standards.

- (21) No building on any area of the development hereby permitted shall be occupied until a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, has been submitted to the Local Planning Authority which demonstrates the suitable operation of the drainage system such that flood risk is appropriately managed, as approved by the Lead Local Flood Authority. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; and topographical survey of 'as constructed' features.

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

#### INFORMATIVES

- (1) The applicant is advised to contact Southern Water in relation to position and need for diversion of foul sewers; details of the proposed means of foul and surface water sewerage disposal; connection to the public foul sewer and Sustainable Urban Drainage. Contact details are Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW [www.southernwater.co.uk](http://www.southernwater.co.uk), [developerservices@southernwater.co.uk](mailto:developerservices@southernwater.co.uk) or 0330 303 0119.
- (2) The applicant is advised to contact Scotia Gas Networks before carrying out any works in the vicinity of Scotia Gas Network infrastructure.

- (3) The applicant is advised that it is the developers responsibility to ensure, before the development hereby approved 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. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <http://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land> of the works prior to commencement on site.
- (4) The applicant is advised to contact Kent County Council for advice on how to proceed with providing access to superfast broadband please contact [broadband@kent.gov.uk](mailto:broadband@kent.gov.uk) and a telecom provider to decide the appropriate solution for this development and the availability of the nearest connection point to high speed broadband. All developers are advised to work with a telecommunication partner or subcontractor in the early stages of planning for any new development to make sure that Next Generation Access Broadband is a fundamental part of the project. Developers are advised to make access to superfast broadband an essential utility for all new homes and businesses and given the same importance as water or power in any development design. We understand that major telecommunication providers are now offering Next Generation Access Broadband connections free of charge to the developer.
- (5) The applicant is advised to comply with the Mid Kent Environmental Code of Development Practice with further details available from the Mid Kent Environmental Health Team.
- (6) The advice in the document Bats and Lighting in the UK - Bat Conservation Trust and Institution of Lighting Engineers is highlighted to the applicant. Summary of requirements - The two most important features of street and security lighting with respect to bats are: 1. The UV component. Low or zero UV installations are preferred to reduce attraction of insects to lighting and therefore to reduce the attraction of foraging bats to these areas. 2. Restriction of the area illuminated. Lighting must be shielded to maintain dark areas, particularly above lighting installations, and in many cases, land adjacent to the areas illuminated. The aim is to maintain dark commuting corridors for foraging and commuting bats. Bats avoid well lit areas, and these create barriers for flying bats between roosting and feeding areas.

UV characteristics: Low - Low pressure Sodium Lamps (SOX) emit a minimal UV component. - High pressure Sodium Lamps (SON) emit a small UV component. White SON, though low in UV, emit more than regular SON. High - Metal Halide lamps emit more UV than SON lamps, but less than Mercury lamps - Mercury lamps (MBF) emit a high UV component. - Tungsten Halogen, if unfiltered, emit a high UV component - Compact Fluorescent (CFL), if unfiltered, emit a high UV component. Variable - Light Emitting Diodes (LEDs) have a range of UV outputs. Variants are available with low or minimal UV output. Glazing and UV filtering lenses are recommended to reduce UV output.

Street lighting Low-pressure sodium or high-pressure sodium must be used instead of mercury or metal halide lamps. LEDs must be specified as low UV. Tungsten halogen and CFL sources must have appropriate UV filtering to reduce UV to low levels. Lighting must be directed to where it is needed and light spillage avoided. Hoods must

be used on each lamp to direct light and contain spillage. Light leakage into hedgerows and trees must be avoided. If possible, the times during which the lighting is on overnight must be limited to provide some dark periods. If the light is fitted with a timer this must be adjusted to reduce the amount of 'lit time' and provide dark periods.

Security and domestic external lighting The above recommendations concerning UV output and direction apply. In addition: Lighting should illuminate only ground floor areas - light should not leak upwards to illuminate first floor and higher levels; Lamps of greater than 2000 lumens (150 W) must not be used; Movement or similar sensors must be used - they must be carefully installed and aimed, to reduce the amount of time a light is on each night; Light must illuminate only the immediate area required, by using as sharp a downward angle as possible; Light must not be directed at or close to bat roost access points or flight paths from the roost - a shield or hood can be used to control or restrict the area to be lit; Wide angle illumination must be avoided as this will be more disturbing to foraging and commuting bats as well as people and other wildlife; Lighting must not illuminate any bat bricks and boxes placed on buildings, trees or other nearby locations.

- (7) The submitted application is supported by a Visual Impact Assessment; Design and Access Statement; Planning and Heritage Statement; Utilities Feasibility Report; Noise Assessment for Proposed Residential Development; Tree Survey; Agricultural Land Classification Plan and a Site Appraisal and Development Strategy. The application also relies on the following information submitted with the earlier withdrawn application (ref 14/504148/full) Landscape Assessment and Statement; Transport Statement; Flood Risk Assessment; Ecological Report; Contamination Report and Archaeological Assessment.

Case Officer: Tony Ryan

NB: For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

## **APPENDIX 1 ORIGINAL COMMITTEE REPORT**

### **REPORT SUMMARY**

30 November 2017

<b>REFERENCE NO - 16/505401/FULL</b>		
<b>APPLICATION PROPOSAL -</b> Erection of 13 dwellings and garages with associated access and landscaping.		
<b>ADDRESS –</b> Vicarage Field At Wares Farm, Linton Hill, Linton, Kent		
<b>RECOMMENDATION – REFUSE PLANNING PERMISSION</b>		
<b>SUMMARY OF REASONS FOR RECOMMENDATION –</b>		
<p>The proposed development, in this prominent location would result in significant and pronounced harm to both local character and the appearance and openness of the wider countryside, failing to respond adequately to the site context and contrary to policies SP17 and DM30 of the Maidstone Local Plan 2017, the NPPF 2012 and the NPPG.</p>		
<p>The proposed development would have a detrimental impact and would fail to preserve or enhance the character of the Linton Conservation Area with the layout of the development failing to reflect the existing open character that makes a positive contribution to this part of the conservation area and failing to respect the linear layout of the village contrary to the Conservation Area Appraisal, the Conservation Area Management Plan, policies DM1 and DM4 of the Maidstone Local Plan 2017, the NPPF 2012 and the NPPG.</p>		
<p>The application site is located in the open countryside with no easily accessible or convenient public transport connections or convenient access to key services and facilities, and as a result is an unsustainable location with development of the site for housing leading to an overreliance on the private motor vehicle contrary to policies SS1 and SP23 of the Maidstone Local Plan 2017 and the NPPF.</p>		
<p>In the absence of an appropriate legal mechanism to secure planning obligations in relation to affordable housing, the enhancement of primary education, towards library book stock and to increase capacity in three local surgery premises, the development would be detrimental to existing infrastructure and contrary to policies ID1 and DM20 of the Maidstone Local Plan (2017), and central government planning policy as set out in the National Planning Policy Framework.</p>		
<b>REASON FOR REFERRAL TO COMMITTEE -</b>		
Call in from Cllr Webb on the grounds that:		
<ul style="list-style-type: none"><li>• It is contrary to the Affordable Housing Development Plan Document (2006) (<i>NB: now superseded by policy SP20 Maidstone Local Plan 2017</i>);</li><li>• In proportion to the size of Linton, the development would be a major increase in the number and concentration of housing;</li><li>• The siting of the development on the A229 might cause traffic problems and other issues;</li><li>• Local residents have expressed views both in support and against the application and as a result it is considered appropriate that both these opinions be heard at a planning committee.</li></ul>		
<b>WARD</b> Coxheath And Hunton	<b>PARISH/TOWN COUNCIL</b> Linton	<b>APPLICANT</b> Countryside Properties Ltd. <b>AGENT</b> DHA Planning
<b>DECISION DUE DATE</b> 17/10/16	<b>PUBLICITY EXPIRY DATE</b> 19/08/16	<b>OFFICER SITE VISIT DATE</b> 28/10/2016

<b>RELEVANT PLANNING HISTORY:</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
14/504148/FULL	Erection of 14 detached dwellings together with new access and areas of landscaping.	Withdrawn	21.08.2015
TA/0146/08	An application for consent to fell and take out stumps of two Chestnut trees which have coppiced on their own, subject to Tree Preservation Order 21 of 1976	Approved	14.01.2009
TA/0147/08	Notification of intention to lower, road-side hedge, down two or three feet to the original size; the hedge being located within Linton Conservation area	No Objection	23/12/2008

## **MAIN REPORT**

### **1.0 DESCRIPTION OF SITE**

- 1.01 The application site is an agricultural field of 1.87 hectares located on the west side of Linton Hill (A229). The A229 road carries a large volume of traffic between Linton, Coxheath and Maidstone to the north, and Marden and Staplehurst to the south. The site is outside a settlement boundary as defined in the Local Plan. The eastern half of the application site is currently within Linton Conservation Area; committee approval is in place to carry out public consultation on amending the boundary to include the whole of the current application site in the conservation area.
- 1.02 There is a change in ground level across the site with a gradual fall from the centre to the west and to the south towards Wheelers Lane. Whilst the site is generally open there are trees along the boundaries, with two individual trees along the northern boundary covered by a Tree Protection Order (references 4518/TPO and 4519/TPO). Other trees located within the conservation area are given protection by this designation. The trees on the opposite side of Linton Hill running parallel to the road are also covered by a Tree Protection Order.
- 1.03 The application site is Class 3b agricultural land which is not considered the best and most versatile. The site is not land considered at risk from fluvial flooding (flood risk zone 1 has a low probability of flooding with less than 1 in 1,000 year's annual probability of river flooding). Bus stops are located on Linton Hill just to the south of the junction with Wheeler Lane served by routes 5, 27 and 28.
- 1.04 There are no statutorily or locally listed buildings located on the application site however the land on the east side of Linton Hill and opposite the side frontage forms part of the grounds of Linton Park. Linton Park is on the national Register of Historic Parks and Gardens for its special historic interest - Grade II\*. Linton Park is included on the register as an early to mid-19 century garden with significant surviving features influenced by the horticultural writer and designer J C Loudun. Linton Park gardens contain a number of Grade II listed structures (late 18 century, early 19 century) including a sun dial, flight of steps, former stables, paved yard, ice house and a folly. The Grade I listed main house (around 450 metres to the north east of the application site) was built around 1730 with alterations by Thomas Cubitt from 1825.
- 1.05 The Wheelers Lane and Linton Hill road junction is located 83 metres to the south of the application site, separated by a row of four semi-detached properties fronting Linton Hill. The rear gardens of semi-detached and detached properties and an

allotment separate the site from Wheelers Lane that runs parallel to the southern site boundary.

- 1.06 To the west of the site is a children's playground, with the formally laid out cul-de-sac of Cornwallis Avenue to the rear of the playground and open fields beyond. A footpath link between Cornwallis Avenue and Linton Hill runs along the northern site boundary. The land immediately to the north and east is more open and rural in character with sporadic residential development.
- 1.07 Further to the south a row of semi-detached properties on large plots are located on the west side of the road running up to the Linton Hill and Redwall Lane road junction. This road junction is the southern boundary of the conservation area and special landscape area. Residential buildings in Linton are concentrated around St Nicholas Church and The Bull Public House located 480 metres to the north of the site on Linton Hill

## **2.0 PROPOSAL**

- 2.01 The submitted proposal is for the construction of 13 properties on this existing agricultural arable field with vehicular access from Linton Hill provided in a similar location to the existing field access.
- 2.02 The layout of the proposed development includes a wedge shaped area of landscaped open space on the Linton Hill frontage that is intended to be publically accessible. The proposed building line reflects the existing building to south off the application site (Weatherstones) with the building line then angled away from the front boundary into the site to the north. The main internal spinal access road runs north east to south west with a pond located in the south west corner of the site.
- 2.03 The 13 properties are in seven different building styles with three 5 bedroom properties (plots 1, 2 and 5) and ten 4 bedroom properties. The three 5 bedroom properties cover 1850 square feet, plot 3 covers 2670 square feet, plots 4, 6, 7 8, 11, 12 and 13 cover 1775 square feet and plots 9 and 10 1975 square feet.

## **3.0 POLICY AND OTHER CONSIDERATIONS**

Maidstone Local Plan (October 2017): DM1; DM2; DM3; DM4; DM6; DM8; DM12; DM19; DM20; DM21; DM23; DM30; SP19; SP20; SP23 and ID1  
National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)  
Supplementary Planning Documents: Kent Design Guide Review: Interim Guidance Note 3: Residential Parking; Linton Conservation Area Appraisal and Linton Conservation Area Management Plan.

## **4.0 LOCAL REPRESENTATIONS**

- 4.01 The submitted planning application was publicised by means of a site notice, a press notice ('major' development) and individual consultation letters sent to neighbouring addresses.
- 4.02 Local Residents: Ten representations received from local residents objecting to the planning application on the following (summarised) grounds:
- 4.03 Character and appearance
- The proposal would spoil the character and charm of the village designated a Special Landscape Area with significant harm to the character of The Greensand Ridge Special Landscape Area.

- Policy SP17 states that the Greensand Ridge will be conserved, maintained and enhanced.
- Development does not recognise the intrinsic character and beauty of the countryside, particularly given that this site partly incorporates a conservation area.
- The development would erode the openness of the area and would result in harm to the character of the countryside contrary to Policies ENV28 and ENV34.
- Linton is a rural village, and an estate of luxury houses put in a field which used to be a pear orchard does not have the potential to protect or enhance this historic area.
- Advice on earlier application for 14 units was that a significant reduction in units was required, that the road frontage should be in keeping with the linear aspect of the village, this advice has not been followed
- It does not enhance or maintain the vitality of rural communities and fails to identify the open aspect of the existing site and the conservation area surrounding it.
- Fails to take account of the consultant's report published in March 2016 that recommended that the Linton Conservation Area boundary be extended to include all of Vicarage Fields and Linton Park.
- The infilling of this large plot will result in built form that would erode the rural setting of the village.
- Neither the existing Local Plan nor the 2016 Draft version allow for development in Linton.
- The submitted planning and heritage statement fails to take account of the planning history for this site or other nearby sites
- Nothing has been communicated by previous comments from the previous planning attempts about the original trees being removed from the property without proper approvals.
- Fails to note that the site was a working pear orchard but was grubbed up in October 2008.
- Para 4.22 of the emerging plan seeks to protect the individual character of the hierarchy settlements.
- Concerns about the visual impact and future maintenance of the fencing around the attenuation pond.
- Concerns about the future maintenance of the open areas of the site including along the site frontage.
- The Linton Parish Council letter does not deal with the impact on the open space and the protection of the same and makes no mention of the Linton Conservation Area.
- The general character of the area is one of openness and this was referred to as one of the main grounds for refusing an application to build a pair of semi-detached cottages on a site adjacent to Vicarage Field.
- Infilling and building on farm land in such a sensitive and valued rural setting would set a very dangerous precedent.

#### 4.04 Traffic

- Planning was turned down some years ago and as the circumstances have not changed in any way apart from increased volumes of traffic from neighbouring developments using the A229, I see no reason why planning should be granted.
- Linton is a quiet village which has been subjected to increasing amounts of traffic
- Multiple accidents have been witnesses. Linton crossroads is also an accident black spot.
- The queue of traffic up the hill in rush hour towards the crossroads takes 20 minutes at times,
- Realistically each proposed dwelling will accommodate a minimum of 2 cars plus visitor traffic, which means there will be a high volume of traffic attempting to access Linton Hill, a road that is already struggling to accommodate traffic in rush

hour. It is not safe to allow further traffic to attempt to access this road.

- Linton Hill suffers long tail backs of traffic at busy times so yet another proposed junction would be an added danger and put further pressure on the road.
- There is a huge amount of development underway in Heath Road, Coxheath which will add to the considerable traffic congestion on the roads and in particular the A229.
- Building a further 13 large houses and creating another new access for the proposed estate onto the busy A229 can only make these problems worse.

#### 4.05 Residential amenity

- There will be light pollution, noise pollution, and potential flood risk to the properties to the south west of the field due to run off and lack of permeability of the clay soil.
- This will cause an increased light and noise pollution in a rural village with amazing views.
- The scheme will result in light pollution in an area with little street lighting..
- The development will lead to overlooking of the allotments in Wheelers lane leading to issues of the security of crops and sheds

#### 4.06 Infrastructure

- There are very large developments currently under construction in Coxheath, which will put pressure on the already stretched services that this application will rely on.
- The site is remote from any of the given service centres proposed in the plan.
- The infrastructure is not in place to cope with additional housing needs in the area.
- Local schools and GP practices are already struggling to cope with heavy demand and pushed to breaking point with the developments already underway and planned for Coxheath and Boughton Monchelsea.
- The local community cannot accommodate any further development in the area.
- The Linton Parish Council letter (that raises no objection) fails to address the lack of infrastructure to cope with the additional burden these houses will place on schools and local GP practices.
- There is a huge amount of development underway in Heath Road, Coxheath which will already add to the strain and pressure on local services

#### 4.07 Demand / need

- There does not appear to be a demand for this type of property, as another large detached dwelling on Wheelers Lane has failed to sell after a long period of time.
- It should be noted that the existing Plan and the Emerging Local Plan dated February 2016 does not make provision for any development in Linton Village and this particular site is not proposed for any development in either Plans. In fact it is actually listed in a table of rejected sites SHEDLAA 2014 (site HO-44)
- The Linton Parish Council letter fails to address the fact that that neither the Emerging Plan or existing Plan makes provision for development on this site;

#### 4.08 Flooding/drainage

- These 13 houses will lead to a substantial increased demand on an ancient drainage system which is already experiencing difficulties with raw sewage flooding a property in Wheeler's Lane
- Concerns about the discharge of surface water into the public sewerage system

#### 4.09 Other matters

- It is unclear which of the supporting documents have been updated to reflect the emerging local plan and new planned housing developments
- The supporting documents fails to mention the views of the Local Plan inspector

- There are lots of birds and animals living in this area which may never recover from such a venture.

## 5.0 **CONSULTATIONS**

*(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)*

### Kent County Council Community Services

- 5.01 No objection subject to planning obligations to mitigate the additional pressure on local services. Including primary education and libraries and an informative on broadband provision.

### Linton Parish Council

- 5.02 No objection, however it is requested that s106 money be requested to provide a roundabout at the junction to the North, at the crossroads with the B2163 and a pedestrian crossing facility on the A229 in the centre of Linton Village. Planning conditions are requested preventing street lighting within the development, a pedestrian gate from the development to the playground at the rear of the site and a hedge of mixed native species planted along the Southern border of the right of way along the Northern boundary of the field.

### NHS (West Kent Clinical Commissioning Group)

- 5.03 No objection subject to a planning obligation of a financial contribution of £17,784 to mitigate the additional pressure on local services.

### Historic England

No objection in principle in heritage terms subject to detailed specialist advice from the Council Conservation Officer.

- 5.04 The proposed development of 13 houses lies in an open area within the linear section of the conservation area. It is recommended that that the mass and grain of the proposed development should reflect the established character of openness and loose pattern of development within this part of the conservation area. In this case this may mean that the pattern of development, for example, will need further consideration so that the sense of openness and key views that reinforce the conservation area's hilltop location are preserved or, if possible, enhanced (NPPF 137).

### Maidstone Borough Council Conservation Officer

- 5.05 Objection to the application on the following heritage grounds
- Half of this site lies within the Linton Conservation Area with approval given for the other half to be included.
  - Site is identified in the approved Conservation Area Appraisal as making a positive contribution to the character of the conservation area by allowing open views out of the village street.
  - The Conservation Area Management Plan (approved in March 2010) says scope for new development is limited; secondly that any proposals should respect the linear form of the village.
  - The proposals do not do this but seek to introduce an alien and informal scattered layout.
  - The Conservation Area Management Plan states that the Council will seek to preserve existing open land on the western side of Linton Hill from development.

### Applicant's response to the conservation officer and Historic England comments

- 5.06 *The following key principles were applied to the design and layout :*

- *Setting back the proposed built development and proposing an attractive area of open space at this frontage helps respect the character and setting of the Linton Conservation Area and the established character of openness.*
- *Framing of a key view, north east to south west through the site, by proposing an open corridor framed by trees and buildings leading to orchards and a pond to reflect the local character of the scarp slope. This purposely presents a loose pattern of development in keeping with the Conservation Area and preserve and enhances key views to help reinforce the Conservation Area's hilltop location.*
- *The provision of indigenous planting will respond positively to the existing landscaping within the area.*
- *The proposed architecture is influenced by local vernacular including the Vicarage and nearby houses. This will include the use of stone features, low stone walls with formal hedges and Kentish ragstone.*
- *we believe that this proposal would provide for a loose grain of development, as identified within Historic England's response to this application.*
- *Proposal would ensure that all key views across and of the site would be preserved, and where possible would allow for greater public access than at present, which would open the views up to local residents from within the site.*

Kent County Council Local Highway Authority

- 5.07 No objection subject to submission of a definitive A1 plan showing footways, access, visibility splays, the turning head and visitor parking and conditions relating to submission and approval of construction phase arrangements and provision and retention of facilities for the completed development and an informative providing advice on separate highways approvals.

Maidstone Borough Council Environmental Health

- 5.08 No objection subject to planning conditions and informatives relating to approval of construction management schedule, noise mitigation; hours of working, storage of oils and chemicals and the Mid Kent Environmental Code of Development Practice

Maidstone Borough Council Landscape Officer

- 5.09 Trees located in the eastern portion of the site are protected by virtue of being located in the conservation area and there are two individual horse Chestnut trees protected by TPO No. 1 of 1976 to the north of the site. The lines of hedgerow may be considered 'important' under the Hedgerow Regulations. The proposed development layout does not conform with the relevant guidelines of the Landscape Capacity Study and no landscape appraisal or tree survey information in accordance with BS5837: 2012 (covering trees and hedgerows) appears to have been produced by the applicant.

Maidstone Borough Council Housing Services

- 5.10 Development should provide 5 affordable housing units. As the size of the units and the proposed development may not be suitable for on-site affordable housing, in accordance with policy, an off site provision should be sought in the following order of preference: 1) An identified off site scheme; 2) The purchase of dwellings off site; or 3) A financial contribution towards off site affordable housing.

Natural England

- 5.11 No comment

KCC Ecology

- 5.12 No objection subject to conditions requiring the submission and approval of a detailed precautionary mitigation strategy a detailed ecological enhancement and management plan.

- Environment Agency
- 5.13 This planning application falls outside our remit as a statutory planning consultee and we do not wish to be consulted on it. The site lies in flood zone 1 on weald clay geology.

- UK Power networks
- 5.14 No objection

- CPRE Maidstone
- 5.15 Objection to the proposal on the following grounds
- Development not appropriate for Linton Conservation Area;
  - Development contrary to the NPPF section 12, paragraphs 126 to 141, and the importance of preserving heritage assets has recently been reinforced by legal and planning;
  - Contrary to Draft Local Plan policy SP17, in not meeting the criteria of paragraphs 1, 2, 4, 6 and 8 in particular;
  - Proposal would exacerbate inappropriate ribbon development;
  - To approve it would create “urban sprawl” in a rural area;
  - The site makes an important and positive contribution to the local landscape;
  - The site has always been in agricultural use, being orchard until relatively recently;
  - The site has been refused planning permission on a number of occasions, most notably by the Planning Inspectorate prior to the adoption of the Maidstone Local Plan 2000;
  - Site cannot be considered as an “exception site” because a) there is no known local need, b) there are too many dwellings, and c) the proposed dwellings are not of an appropriate size for that purpose (contrary to SP5 in Draft Local Plan);
  - The site entrance and exit is directly on to the A229 which is already subject to high traffic flows, which will get worse as new developments are completed, especially to the south from Marden and Staplehurst;
  - The site is not included in the Draft Local Plan

- Scotia Gas Networks
- 5.16 No objection. The applicant is advised to contact Scotia Gas Networks before carrying out any works in the vicinity of the Scotia Gas Network.

- Upper Medway Internal Drainage Board
- 5.17 The site of this proposal is located outside of the Boards district and provided offsite runoff is not increased the Boards interests should not be affected. Details of the proposed SuDS and its future maintenance should be designed and agreed in direct consultation with KCCs drainage and flood risk team.

- Southern Water
- 5.18 No objection subject to planning conditions and informatives attached to any planning approval relating to the diversion of foul sewers that run under the site; details of a sustainable urban drainage system, details of the proposed means of foul and surface water sewerage disposal; highlighting the requirement for a formal application to connect to the public sewerage system; and for the applicant to contact Southern Water to discuss the location of new trees and soakaways and protection of existing infrastructure.

- KCC Drainage
- 5.19 Insufficient information is currently available from the applicant to confirm that the proposal is acceptable in relation to drainage however at the time of writing discussions are on going with the applicant.

## 6.0 APPRAISAL

### Main Issues

- 6.01 The key issues for consideration relate to:
- Sustainability of the location and housing need;
  - Design and appearance (including impact on Linton Conservation Area);
  - Impact on the amenities of neighbouring occupiers;
  - Standard of proposed residential accommodation;
  - Flooding and drainage,
  - Impact on the local highway network;
  - Trees and ecology.
- Sustainability of the location and housing need
- 6.02 The NPPF states that sustainable development should be seen as a golden thread running through both plan-making and decision taking (paragraph 14). Patterns of growth should make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are, or can be made sustainable (paragraph 17). Paragraph 29 of the NPPF states that: *'The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel....'*
- 6.03 The adopted plan sets out that development must be delivered at the most sustainable locations where employment, key services and facilities are available together with a range of transport choices (paragraph 4.11). In terms of guiding this development the plan sets out a sustainable settlement hierarchy with Maidstone urban area at the top of this hierarchy, followed by rural service centres and then the larger villages.
- 6.04 The current application site located outside a settlement boundary and for the purposes of the plan in open countryside is not located in any of the areas listed in the sustainable settlement hierarchy. Notwithstanding the adopted local plan, the suitability of the site needs to be considered in terms of transport choices and accessibility to employment, key services and facilities.
- 6.05 The facilities included in the main part of Linton located to the north are The Bull Public House and St Nicholas Church. Whilst the site benefits from a continuous pavement to the pub and the church, it is a distance of 480 metres and is along the narrow Linton Hill that carries a significant quantity of traffic and has a 40mph speed limit.
- 6.06 The information provided by the applicant in the Transport Statement indicates that a convenience shop is 1300 metres away (16 minute walk); and the medical centre, primary school, post office and pharmacy are around 2,500 metres away or 30 minutes walking time. It is concluded that with the distances from the site and the unattractive prospect of walking along Linton Hill future occupiers are unlikely to carry out journeys on foot. There is limited availability of public transport locally.
- 6.07 The suitability of the site to become allocated housing land was considered as part of the 2014 'Call for Sites' process. The site was rejected on the following grounds: *"Site is located in the open countryside and removed from an established settlement and associated services. Development would cause harm to the open character of the countryside and the adjacent conservation area"*.
- 6.08 The site was considered again as part of the Strategic Housing and Economic Development Land Availability Assessment in January 2016. It was concluded that

*“There had been no change in circumstances from the previous submission to warrant a change” with inclusion of the site rejected for a second time.*

- 6.09 As confirmed by recent appeal decisions and the adoption of the Local Plan on the 25 October 2017 the council can adequately demonstrate a five year supply of housing without the need for housing development on the application site. In the context of a five year land supply adopted planning policies can be given full weight and there is no need for the housing that is currently proposed.

Landscape impact

- 6.10 The application site currently makes a positive contribution to the landscape, with the low front boundary hedge and open character the site maintaining the sporadic nature of local development and the rural character of this area. The site provides an important visual break between Cornwallis Avenue to the west, Wheelers Lane to the south and The Vicarage to the north allowing views to the south west.

- 6.11 It is considered that the proposed development with the introduction of housing onto this field, a new access would have a negative impact on the character of the local area, damaging the rural character and failing to conserve or enhance this landscape.

Design, appearance, impact on heritage assets and Linton Conservation Area;

- 6.12 Policy DM 1 of the local plan states that proposals which would create high quality design will be permitted. Proposals should respond positively to and where possible enhance the character of the area. Particular regard will be paid to scale, height, materials, detailing, mass, bulk, articulation, and site coverage - incorporating a high quality modern design approach.

- 6.13 There is a statutory requirement to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area (s.72, 1990 Act). This requirement must be taken into account when making decisions. NPPF paragraph 139 states that local planning authorities should look for opportunities for new development within conservation areas to enhance or better reveal their significance.

- 6.14 The boundary of Linton Conservation Area currently runs through the middle of the application site with the eastern half of the application site within the conservation area. An independent report recommended that the conservation area boundary be extended to include the whole of the application site. The Strategic Planning, Sustainability and Transportation Committee on the 11 April 2017 gave the Head of Planning and Development delegated authority to take forward the boundary alterations to Linton Conservation Area.

- 6.15 Vicarage Field lies to the west of Linton Hill and it is considered that the site contributes to the character of the conservation area by providing open views to the West and separation between existing built development along Linton Hill. The site is identified in the approved Conservation Area Appraisal as making a positive contribution to the character of the conservation area by allowing open views out of the village street. It is considered that the proposed development involving the construction of houses on this open land, associated development, landscape screening of new houses, the new vehicular access and general domestic paraphernalia would have a negative impact on the Linton Hill Conservation Area.

- 6.16 The Conservation Area Management Plan advises that scope for new development is limited; that it will seek to preserve existing open land on the western side of Linton Hill from development and that any proposals should respect the linear form of the village. The submitted proposals fail to respect the form of the village providing an informal

scattered layout that is out of keeping with the surrounding area and will fail to preserve the open nature of the land.

- 6.17 The parish council have suggested a planning condition preventing the installation of street lights within the development. It is considered that such a condition is unlikely to meet the necessary tests. It is considered that the provision of streetlights, domestic lighting and vehicle lights in this location would be required for safety and security and will have a negative impact on the character of the area.
- 6.18 There are no statutorily or locally listed buildings located on the application site however land on the east side of Linton Hill and opposite the side frontage forms part of the grounds of Linton Park. Linton Park is on the national register of historic parks and gardens for its special historic interest - Grade II\*. Linton Park gardens contain a number of grade II listed structures (late 18 century, early 19 century). The closest of these features is the sundial which is around 400 metres to the north east of the current application site. The grade I listed main house is located around 450 metres to the north east of the application site. It is considered that due to the separation distances the proposed development would not harm the setting of the designated buildings and gardens.
- 6.19 The proposed facing materials include a mixture of plain red clay tiles; yellow multi stock brickwork; Kentish ragstone cladding or similar; smooth white render; reconstituted blue/grey slate with white uPVC windows and doors and black uPVC rainwater goods. The ridge heights of the houses range from 7.5 metre to 9 metres and eaves heights between 4 and 5 metres.
- 6.20 All of the properties are provided with a double garage and two formal open car parking spaces. The majority of the proposed housing plots also have additional space within their boundaries to accommodate parking for an additional two or three vehicles.

#### **Residential amenity and standard of new accommodation**

- 6.21 The core principles set out in the NPPF (para. 17) state that planning should '*always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings*'.
- 6.22 Policy DM1 advises that development should respect the amenities of occupiers of neighbouring properties by ensuring that development does not result in excessive noise, activity or vehicular movements, overlooking or visual intrusion. The policy states that the built form would not result in an unacceptable loss of privacy or light enjoyed by the occupiers of nearby properties.
- 6.23 The development will not result in excessive noise, activity or vehicular movements, overlooking or visual intrusion. After assessing building orientation and separation distances it is concluded that the proposal is acceptable in relation to the loss of privacy or light enjoyed by current or future occupiers of nearby buildings and land. Passive surveillance of the adjoining allotments is likely to increase security rather than decrease it as has been suggested in consultation responses.
- 6.24 The submitted layout plan demonstrates that site can accommodate the number of dwellings proposed and provide these to a suitable standard including in terms of outdoor space and privacy.

#### **Access, highway safety, trip generation and traffic impact**

- 6.25 Paragraph 32 of the NPPF states that decisions taken on planning applications should take account of whether all people have safe and suitable access to the site. The

National Planning Policy Framework (NPPF) states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are 'severe'. Whether the impact is severe can only be judged on a case by case basis, taking account of all material factors.

- 6.26 Whilst the existing local traffic issues raised in consultation responses are acknowledged, it is considered that the traffic impact from the proposed 13 houses will not be severe. It is considered that it is possible to provide the necessary visibility splays to ensure that a new access would be acceptable in relation to highway safety. It is considered that there are no highways grounds to refuse planning permission. KCC Highways have also considered traffic impact and they have advised that they have no objection to the development on highway grounds subject to information that could be requested through planning conditions.

### **Ecology and trees**

- 6.27 The National Planning Policy Framework at paragraph 109 states that '*the planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and delivering net gains in biodiversity where possible*'.
- 6.28 The National Planning Policy Framework states that "*the planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and delivering net gains in biodiversity where possible*".
- 6.29 The application site consists of an arable field with hedgerows, scattered deciduous trees, tall ruderal vegetation, rough semi-improved grassland and some areas of scrub with hedgerows, grassland and scrub. The site has no statutory ecology designation and is not recognised for being of any notable importance in relation to ecology. There is limited potential for protected/notable species to be impacted by the proposed development provided the precautionary mitigation is implemented and enhancement secured through the use of planning conditions if the council are minded to approve planning permission. If minded to approve permission conditions could be used to provide protection to trees on the site.

### **Flooding and drainage**

- 6.30 The site is not in a location recorded by the Environment Agency as being prone to fluvial flooding, and no objection is raised on the grounds of fluvial flood risk. In relation to surface water flooding if minded to approve pre-commencement conditions would be recommended seeking the submission of details of a sustainable surface water drainage scheme, and implementation of the approved details. Southern Water raise no objection. KCC drainage await further information from the applicant in relation to drainage issues.

### **Environmental Impact Assessment**

- 6.31 The proposed development does not include more than 150 houses and the overall area of the development does not exceed 5 hectares, and as a result the proposed development falls outside the scope of Schedule 2 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 as an urban development project.

### **Planning obligations and the Community Infrastructure Levy Regulations**

- 6.32 Policy ID1 of the Local Plan relates to infrastructure delivery. In the event of competing demands for developer contributions towards infrastructure the Council's hierarchy of prioritisation set out in policy ID1 is: affordable housing, transport, open space, public realm, health, education, social services, utilities, libraries and emergency services.

- 6.33 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: The requests must be 1. Necessary, 2. Related to the development, and 3. Reasonably related in scale and kind.
- 6.34 In addition since 6th April 2015, section 123 of the CIL Regulations places a restriction on the number of different obligations (calculated back to April 2010) that relate to the funding or provision of an infrastructure project or type of infrastructure, (“the pooling restriction”). As such, the scope of contributions that can be requested in respect of new development is restricted. Affordable housing is excluded from this restriction.
- 6.35 The CIL 122 and 123 tests have been applied in the context of this planning application and the above planning obligations were found to be compliant with the Community Infrastructure Levy Regulations 2010 (Regulation 122). The planning obligations in the context of this planning application have been assessed against and were found to be compliant with the Community Infrastructure Levy Regulations 2010 (Regulation 123). With the proposed obligations also in line with adopted and emerging the provision of these contributions by way of an appropriate legal mechanism is considered acceptable.

#### Affordable housing

- 6.36 The NPPF (Chapter 6) supports the delivery of a wide choice of high quality homes, this includes at paragraphs 47 and 50 the provision of affordable housing. Policy SP20 of the adopted plan states that on housing sites of 11 residential units or more, or which have a combined floorspace of greater than 1,000m<sup>2</sup>, the council will require the delivery of affordable housing.
- 6.37 Policy SP20 states that in exceptional circumstances, and where proven to be necessary, off-site provision will be sought. It is considered that as a result of the size of the proposed units the development is not suitable for on-site affordable housing. The applicant has indicated (email dated 25 October 2017) that they would be prepared to pay an off-site contribution towards affordable housing in the region of £1,000,000. The off-site affordable housing contribution calculated using the applicant’s open market value estimates and based on policy compliant on site provision would amount to £999,532.

#### Kent County Council

- 6.38 The County Council has assessed the potential impact of this proposal on the delivery of its community services. The County Council is of the opinion that the development will place additional demand on the delivery of its services and this will require mitigation either through the direct provision of infrastructure or the payment of an appropriate financial contribution. Potential obligations have been considered against the Community Infrastructure Levy (CIL) Regulations part 122 and 123.

- Primary Education

- 6.39 The proposal gives rise to additional primary school pupils during occupation of the development. This need, cumulatively with other new developments in the vicinity, can only be met through the enhancement of Boughton Monchelsea Primary School. The County Council requires a financial contribution towards the enhancement of Boughton Monchelsea Primary School at £2360.96 for each ‘applicable’ house.

- Secondary School Provision

6.40 Whilst Kent County Council Education Authority can demonstrate a forecast lack of provision which will require school expansions, due to the Government pooling restrictions the County Council can now not collect secondary contributions from every development, only those creating the largest amount of demand.

- Libraries

6.41 KCC are the statutory library authority. The library authority's statutory duty in the Public Libraries and Museums Act 1964 is to provide 'a comprehensive and efficient service'. The Local Government Act 1972 also requires KCC to take proper care of its libraries and archives. Bookstock in Maidstone Borough at 1119 items per 1000 population is below the County average of 1134 and both the England and total UK figures of 1399 and 1492 respectively.

6.42 To mitigate the impact of this development, the County Council will need to provide additional library books to meet the additional demand to borrow library books which will be generated by the people residing in these Dwellings. The County Council therefore requests £48.02 per household to address the direct impact of this development, and the additional stock will be made available locally as and when the monies are received.

NHS West Kent Clinical Commissioning Group

6.43 As of 1 April 2016, NHS West Kent Clinical Commissioning Group (CCG) took on responsibility for the delegated co-commissioning of primary care services in West Kent. We are now the body which will requests Section 106 and Community Infrastructure Levy health care contributions on behalf of NHS England South (South East).

6.44 Inevitably any increase in the local population has an impact on provision of health care and NHS West Kent CCG would seek to apply this s106 contribution to meet these extra demands placed upon primary and community health service and to meet the needs of this population.

6.45 In terms of this particular application, a need has been identified for contributions to support the delivery of investments highlighted within the Primary Care Development Strategy and Estates Framework. These improvements to the primary care and out of hospital infrastructure will enable support for the registrations of the new population with a local practice, in addition to the commissioning and delivery of health services to all.

6.46 The proposed development is expected to result in a need to invest in the local surgery premises at The Orchard Medical Centre and the Stockett Lane Surgery. These surgeries are within a 2 mile radius of the development at Vicarage Field. This contribution will be directly related to supporting the improvements within primary care by way of extension, refurbishment and/or upgrade in order to provide the required capacity.

6.47 NHS West Kent CCG will continue to use NHS West Kent formulae for calculating s106 contributions. This has been used for some time and considered fair and reasonable. NHS West Kent CCG will not apply for contributions if the units are identified for affordable/social housing.

6.48 Where the application identifies unit sizes the predicted occupancy rates will be for a 4 bedroom unit @ 3.5 persons and for a 5 bedroom unit @ 4.8 persons. These occupancy rates are then multiplied by £360 per person to calculate a financial

contribution. With the proposal providing 10 four bedroom (10 x 35 x 360) and 3 five bedroom units (3 x 14.4 x 360) the total financial contribution would be £17,784.

- 6.49 In conclusion and if the submitted proposal were considered acceptable in all other respects planning obligations would be sought to secure the above infrastructure and affordable housing as part of a recommendation to approve planning permission. As set out in this report it is the officer recommendation to refuse planning permission and a reason for refusal is recommended that states that the proposal in the absence of the required planning obligations would have an unacceptable impact on local infrastructure and would fail to provide the affordable housing for which there is a proven need.

## **8.0 CONCLUSION**

- 2.1 The proposed development, in this prominent location would result in significant and pronounced harm to both local character and the appearance and openness of the wider countryside, failing to respond adequately to the site context and contrary to policies SP17 of the Maidstone Local Plan 2017, the NPPF 2012 and the NPPG.
- 2.2 The proposed development would have a detrimental impact and would fail to preserve or enhance the character of the Linton Conservation Area with the layout of the development failing to reflect the existing open character that makes a positive contribution to this part of the conservation area and failing to respect the linear layout of the village contrary to the Conservation Area Appraisal, the Conservation Area Management Plan, policy DM1 of the Maidstone Local Plan 2017, the NPPF 2012 and the NPPG.
- 2.3 The application site located in the open countryside and with no easily accessible or convenient public transport connections or convenient access to key services and facilities, and as a result is in an unsustainable location with development for housing leading to an overreliance on the private motor vehicle contrary to policies SS1 and SP23 of the Maidstone Local Plan 2017 and the NPPF.
- 2.4 In the absence of an appropriate legal mechanism to secure planning obligations in relation to affordable housing, the enhancement of primary education, towards library book stock and to increase capacity in three local surgery premises, the development would be detrimental to existing infrastructure and contrary to policies ID1 and DM20 of the Maidstone Local Plan (2017), and central government planning policy as set out in the National Planning Policy Framework.

## **8.0 RECOMMENDATION**

REFUSE planning permission for the following reasons:

- (1) The proposed development, in this prominent location would result in significant and pronounced harm to both local character and the appearance and openness of the wider countryside, failing to respond adequately to the site context and contrary to policies SP17 of the Maidstone Local Plan 2017, the NPPF 2012 and the NPPG.
- (2) The proposed development would have a detrimental impact and would fail to preserve or enhance the character of the Linton Conservation Area with the layout of the development failing to reflect the existing open character that makes a positive contribution to this part of the conservation area and failing to respect the linear layout of the village contrary to the Conservation Area Appraisal, the Conservation Area Management Plan, policy DM1 of the Maidstone Local Plan 2017, the NPPF 2012 and the NPPG.

- (3) The application site located in the open countryside and with no easily accessible or convenient public transport connections or convenient access to key services and facilities, and as a result is in an unsustainable location with development for housing leading to an overreliance on the private motor vehicle contrary to policies SS1 and SP23 of the Maidstone Local Plan 2017 and the NPPF.
- (4) In the absence of an appropriate legal mechanism to secure planning obligations in relation to affordable housing, the enhancement of primary education, towards library book stock and to increase capacity in three local surgery premises, the development would have a detrimental and unacceptable impact on existing infrastructure, would fail to meet the need for affordable housing and would be contrary to policies ID1 and DM20 of the Maidstone Local Plan 2017, and the NPPF.

#### Informative

The development proposals are shown on the following drawings: 21954A/01A (site location plan); 21954A/02A (topographical survey); 21954A/05 (existing site sectional elevation A-A); 21954A/06 (existing site sectional elevation B-B); 21954A/07 (existing site sectional elevation C-C); 21954A/08 (existing site sectional elevation D-D); 21954A/10C (site layout plan); 21954A/20A (plot 1 floor plans and elevations); 21954A/22A (plots 2 & 5 floor plans and elevations); 21954A/23A (plot 3 floor plans and elevations); 21954A/24A (plots 4 & 7 floor plans and elevations); 21954A/25A (plot 6 floor plans and elevations); 21954A/28A (plots 8, 11, 12 & 13 floor plans and elevations); 21954A/29 (double garage floor plan and elevations); 21954A/50A (proposed site sectional elevation A-A); 21954A/51A (proposed site sectional elevation B-B); 21954A/52A (proposed site sectional elevation C-C); 21954A/53A (proposed site sectional elevation D-D); SURV1780 (topographical survey - sheet 1 of 1 showing trees); SURV1780 (topographical survey - sheet 1 of 1 showing contours);

The application is supported by a Visual Impact Assessment; Design and Access Statement; Planning and Heritage Statement; Utilities Feasibility Report; Noise Assessment for Proposed Residential Development; Tree Survey; Agricultural Land Classification Plan and a Site Appraisal and Development Strategy. The application also relies on the following information submitted with the earlier withdrawn application (ref 14/504148/full) Landscape Assessment and Statement; Transport Statement; Flood Risk Assessment; Ecological Report; Contamination Report and Archaeological Assessment.

Case Officer: Tony Ryan

NB: For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

Reference number: 16/505401/FULL

**Page 12 Reasons for Referral to Committee**

Remove first bullet point

~~It is contrary to the Affordable Housing Development Plan Document (2006) (NB: now superseded by policy SP20 Maidstone Local Plan 2017);~~

**Page 17 add following as paragraph 4.10 – additional comments from Cllr Webb**

“With regard to the above application that is coming to Planning Committee on the 30th November, I am not going to be able to attend the meeting but there are a few points I would like to make a clear in my reason for referral to committee. On the papers going before committee it clearly states that one of the reasons I asked for it to go to committee was the fact that

"It is contrary to the Affordable Housing Development Plan Document (2006) (NB: now superseded by policy SP20 Maidstone Local Plan 2017)".

I do not remember ever referring to this document in my call-in request (4th November 2016 and copied on the document page of the planning portal for this application). Also, with regard to the traffic issues I would merely like residents to be able to question Kent Highways over the volume of traffic this development would cause on Linton Hill.

Indeed, this was the main reason to ask for a call-in. Residents had asked me whether they would get a chance to state their objections before a decision was made, conversely other residents had told me they supported the application and wanted to see it approved. Especially noteworthy are the comments made from Linton Parish Council who raise "no objections" and ask that if passed, S106 monies could be allocated to a crossing scheme on Linton Hill, which I know is being advanced by the parish council and has held a public consultation on a proposed scheme. I therefore felt it was better to go to committee and if these residents felt strong enough about the development they would get their 3 minutes to speak to committee members.

Due to the length of time this has taken to reach the decision stage, I have not been asked by any resident to actually speak at the committee and I'm not sure whether there will now be any representations at the meeting itself, but I would like members of the committee made aware, possibly through an urgent update item, the mistake on the papers about my reasons for referral, as it suggests I am being negative about this application, whereas I would just prefer all the arguments to be presented in public and for committee members to make the decision”.

**Page 22 add following as 6.20.1**

“The Conservation Management Plan and Conservation Area Appraisal state that the application site makes a positive contribution to the conservation area by allowing open views from the road and they seek to preserve the existing open land. It is considered that in this context the current proposal that will lead to the loss of openness will lead to substantial harm to the conservation area. With reference to paragraph 133 of the NPPF, with the five year housing land supply in place, the landscape harm and the unsustainable nature of the location there are no public benefits that would outweigh the harm that would be caused”.

**Page 26 add following additional sentence to paragraph 6.49.**

“If members are minded to approve planning permission the applicant has confirmed verbally that they would be willing to sign a legal agreement securing the infrastructure that has been outlined”.

**Page 26 add following as 6.49.1**

“The consultation response from Linton Parish Council requests that if minded to approve the application, off site s106 benefits should be secured including a pedestrian crossing on the A229 outside St Nicholas Church, and provision of a roundabout at the A229 and B2163 junction (0.7 miles to the north of the site). With the distance between the application site and the church (480 metres), the relatively small number of dwellings and no issue raised by KCC Highways it is considered that a request for financial contributions towards a roundabout and a crossing would fail to meet the necessary legal tests. These tests include a requirement that contributions are necessary to make the proposal acceptable in planning terms, directly related to the proposal and fairly and reasonably related in scale and kind to the proposal”.

**Recommendation remains unchanged**