

REPORT SUMMARY

REFERENCE NO - 16/506605/FULL			
APPLICATION PROPOSAL Construction of Eight Open Market 1 and 3 bedroom homes, construction of Five affordable 1, 2 & 3 bedroom homes, construction of access road, parking bays and car ports, installation of new landscaping and ecology enhancements			
ADDRESS Land North Of The Victoria Inn Heath Road East Farleigh ME15 0LR			
RECOMMENDATION - Refuse Planning Permission			
SUMMARY OF REASONS FOR REFUSAL The introduction of 13 houses in this countryside location would result in significant harm to the open and rural character of the area contrary to Policies ENV28 of the MBWLP and emerging Policy SP17 of the MLP. The provision of 5 local needs houses (LNH) does not outweigh this harm.			
REASON FOR REFERRAL TO COMMITTEE The application has been called in by Councillor Webb "to give members the chance to debate whether it assists with the East Farleigh housing needs survey, to supply accommodation for the local needs identified in the survey."			
WARD Coxheath And Hunton	PARISH/TOWN COUNCIL East Farleigh	APPLICANT Country House Homes Ltd AGENT Country House Developments Ltd	
DECISION DUE DATE 07/12/16	PUBLICITY EXPIRY DATE 19/10/16	OFFICER SITE VISIT DATE 28.09.16	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
16/502673	Erection of 8 No Open Market 1 and 3 bedroom homes, and 5No Affordable 1, 2 & 3 bedroom homes. Construction of access road, parking bays and car ports. Installation of new landscaping and ecology enhancements.	Withdrawn	05.09.2016
<i>Summarise Reasons</i> <i>Application withdrawn to allow for an identical re-submission which would qualify for a Member call in within the first 28 days</i>			
13/0154	Construction of 5. no 3 bed houses of which 100% are to be local needs housing as amended by drawings submitted 24 June 2013 - (resubmission of MA/12/0817). (Application on nearby site S of Victoria Court, fronting Heath Road)	Refused <i>Appeal Dismissed</i>	31.07.2013 09.04.2014
<i>Summarise Reasons</i> <i>Inspector's Decision: The proposal would cause harm to the character and appearance of the</i>			

area through the formation of development in the countryside. The proposal failed to comply with Policy ENV28 of the MBWLP or Paragraph 55 of the NPPF. In the absence of a five year housing land supply the site was considered to have mixed benefits in terms of sustainable location, though was found to be acceptable in this respect. The development of five houses would consolidate frontage development and detract from the loose knit form of built development which currently exists, contrary to ENV28 and Paragraph 56 of the NPPF. The Housing Needs Survey had not been updated since 2005 and the evidence from the housing register sought 1 and 2 bedroom dwellings, not the 3 bedroom houses proposed. A local needs housing justification has not therefore been advanced.

12/0817	Construction of 5 No. 3 Bed Houses (Application on nearby site S of Victoria Court, fronting Heath Road)	Refused	30.08.2012
<p><i>Summarise reasons</i></p> <p><i>The development is contrary to the National Planning Policy Framework Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and the National Planning Policy Framework 2012 in that the dwellings would constitute additional unsustainable sporadic development in the open countryside causing harm to the character of the area by virtue of the further erosion of open space between the built development. In the absence of any special circumstances to override the policy objection there is no justification for this unsustainable development outside the village envelope.</i></p>			
07/2249	Erection of two one bedroom bungalows, two, two bedroom houses and one, three bedroom house (100% Affordable Housing) (Application to form Victoria Court to south)	Approved	25.01.2008

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 The site fronts on to Gallants Lane to the east but is accessed via Victoria Court to the south of the site. Victoria Court is a development of five 100% local needs housing, being 2 bungalows and 3 houses developed under planning permission 07/2249. Further to the south of Victoria Court and to the west of the Victoria PH lies a rectangular piece of land which fronts on to Heath Road. This site was subject to the 2012 refusal and the 2013/14 refusal and appeal set out in the planning history above. To the west of the site lies a brick reclamation/builders yard, to the north lies an amenity space and play area which wraps around the south of 6 Crittenden Bungalows.

1.02 The site is open and undeveloped, having been used as paddock land and has a 1.6m native hedge along the Gallants Lane boundary. The southern boundary which fronts on to Victoria Court currently has 2m Herras fencing behind a young hedge which has yet to establish. The boundary to the north with the amenity land is partially screened with semi-mature trees with a section of 1.8m high wire mesh fencing which is currently overgrown, and the western boundary with the brick reclamation yard has a 4-5m hedge.

1.03 The site is relatively flat and there is an existing access off Victoria Court next to 5 Victoria Court. The site provides a break in development between Victoria Court and the

cluster of housing along Gallants Lane to the north. The character of the area is provided by some linear development along roads interspersed with large breaks in development formed by open fields/paddocks. Gallants Lane, has a rural character other than when it passes through the cluster of housing to the north of the site which has the feeling of a small village/hamlet.

2.0 PROPOSAL

2.01 The proposal would provide 13 houses, 5 Local need Houses (LNH) and 8 market housing. The layout of the development is shown to provide two blocks of development at right angles to each other, the block which runs parallel to the western boundary of the site would provide Plots 1-6 being a row of two storey terraced housing with six car ports to the north, gardens to the west and parking spaces to the east. The second block would run parallel to the northern boundary and is formed by a terrace of three houses attached to a back-to-back group of four units (Plots 7-13), gardens are proposed to the north with parking in a car park to the south. Each unit would have two parking spaces, with Plots 3-8 having the car ports and a space forward of the car port. Two visitor spaces are also proposed outside Plot 3. Landscaping is proposed around the site with new tree planting and an ecological area. The native hedge along the eastern boundary with Gallants Lane is proposed to remain.

2.02 Details of the western block: Plots 1-4 would be three bedroom houses with Plots 5 and 6 being two bedroom houses. There are two breaks in the ridge line and slab level to address a change in level across the site dropping down towards the north. Each property would have front and rear facing windows at ground and first floor. This western block would measure 10m deep by 33.4m wide, has an eaves height of 4.9m and an overall ridge height of 8.35m.

2.03 Details of the northern block: Plots 7 to 8 would be three bedroom houses, Plot 9 would be a two bedroom houses and Plots 10 to 13 would be one bedroom back to back homes. There is no change in ridge level for this northern block. This northern block would measure 13.25m deep (at its deepest point) by 27.3m wide with an eaves height of 4.35m and an overall ridge height of 8.7m.

2.04 The proposed car ports would be three bays each and measure 8m wide by 5.6m deep, eaves is proposed at 2.5m with an overall ridge height of 5.1m. The car ports would have plain tiled roofs with barn hips and a cat-slide roof slope to the rear with a low eaves height of 1.7m.

2.05 11 garden sheds are proposed for the development, one for each of the 2 and 3 bedroom houses and two are shown to serve the one bedroom houses although it is not clear which units would have the benefit of the sheds.

3.0 SUMMARY INFORMATION

	Proposed
Site Area (ha)	0.3ha
Approximate Ridge Height (m)	8.35m / 8.7m
Approximate Eaves Height (m)	4.35m / 4.9m
Approximate Depth (m)	10m / 13.25m
Approximate Width (m)	27.3m / 33.4m
No. of Storeys	2
Parking Spaces	28 incl 6 car

	ports
No. of Residential Units	13
No. of Affordable Units	5 (Local Needs)

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF) Paragraphs 7, 17, 32, 49, 55, 56, 57, 58, 109, 123

National Planning Practice Guidance (NPPG) Paragraph 01 (Planning Obligations)

Development Plan: Policies ENV28

Emerging Local Plan: Policies SP17, DM1, DM14, DM34

Supplementary Planning Guidance: Affordable Housing DPD (2006)

5.0 LOCAL REPRESENTATIONS

5.01 Parish Council (East Farleigh) No Comment

5.02 Neighbours: One letter received raising the following comments: There are many aspects of the design of this proposal with merit but nonetheless, having had an opportunity to read the history of applications for this site, I write to object to the proposal. I was most struck by the words of the planning inspector when he dismissed the appeal to the 2013 proposal for 5 houses on the site. In his view the nature of the development was not consistent with the location, although he did go on to say that the reason for refusal may have been outweighed if there were a proven need for more affordable housing.

Whilst much has changed in 3 years and it seems that a need seems proven this application seeks to build beyond that need and then adds 8 open market homes on top. A total of 13 homes against the 5 rejected previously, and, whilst smaller in size, overall there are more bedrooms. It is the resultant density of the development and the associated traffic issues that are of concern. No matter how good the screening, this development will impinge on the openness of the area. Secondly given the level of provision there is the potential for parking to spill over onto Gallants Lane and create parking in a road that, in that stretch, retains the appearance of a rural lane. I hope the Committee will take due note of these issues when reaching its decision. *[It should be noted that the appeal referred to by the PC is not on the same site but on a nearby site]*

6.0 CONSULTATIONS

6.01 KCC Highways: No objection to this application subject to conditions, query regarding access to car ports. Amended comments: No objection, previous issue regarding car ports addressed.

6.02 KCC Development Contributions: The County Council has assessed the implications of this proposal in terms of the delivery of its community services and is of the opinion that it will have an additional impact on the delivery of its services, which will require mitigation either through the direct provision of infrastructure or the payment of an appropriate financial contribution.

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

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

These tests have been duly applied in the context of this planning application and give rise to the following specific requirements: £21,248.64 (£2360.96 per dwelling) for Primary School Enhancements (East Farleigh) and £624.21 (£48.02 per dwelling) for Library Book Stock and a condition is recommended in relation to Broadband provision.

6.03 Natural England: No comments

6.04 KCC Biodiversity Officer: No objections. We have reviewed the submitted documents in support of this application and advise that no further information is required prior to determination of any planning application.

A preliminary ecological appraisal has been submitted and concluded that the development will have no significant impacts to any protected species or habitats and we are satisfied with this conclusion.

6.05 Landscape Officer: There are no protected trees on, or immediately adjacent to, this site. The Arboricultural Report produced by SylvanArb is considered acceptable, as are the principles of the landscape scheme (subject to confirmation of the size/specification for the proposed new hedgerow planting). I therefore raise no objection so long as there is a condition attached requiring compliance with the above mentioned report.

6.06 Environment Agency: No comments

6.07 Southern Gas networks: No direct comments on this application

6.08 Police Crime Prevention Officer: No comments

6.09 Environmental Health: No objection, subject to conditions and informatives.

6.10 Southern Water: No comments. Informative recommended in relation to foul drainage.

6.11 UMDB: No comments

6.12 KCC Archaeology: No comments

7.0 BACKGROUND PAPERS AND PLANS (date received in brackets)

- Design and Access Statement (26.08.16)
- Arboricultural Report (26.08.16)
- Preliminary Ecological Appraisal (26.08.16)
- Appeal Decision APP/U2235/W/16/3146765 "Appleacres" Maidstone Road, Sutton Valance (26.08.16)
- Appeal Decision APP/U2235/W/15/3131945 "Land West of Ham Lane" Ham Lane, Lenham (26.08.16)
- Copy of MBC Housing Comments to application 16/502673 (26.08.16)
- Copy of KCC Economic Development comments to application 16/502673 (26.08.16)
- Copy of KCC Highways Comments to application 16/502673 (26.08.16)
- Copy of Southern Water's comments to application 16/502673 (26.08.16)
- Opinion on MBC's Five Year Land Supply as declared in May 2016 by Country House Developments Ltd dated 17.06.2015 (26.08.16)
- East Farleigh Housing Needs Survey November 2014 (26.08.16)

- Letter from Kent Police in relation to Secured by Design dated 07.06.16 (28.06.16)
- Bus Timetable, Maidstone to Coxheath and east Farleigh via Loose Road, Loose, and Linton Cross Roads. (28.06.16)
- Location Plan 501/B0/001 (26.08.16)
- Existing Block Plan 500/B0/007 (28.06.16)
- Proposed Block Plan 500/B0/010/B (28.06.16)
- Plot 1-6 Floor Plans and Elevations 500/B0/004/C (28.06.16)
- Plot 7-13 Floor Plans and Elevations 500/B0/004/C (28.06.16)
- Monochrome Site Layout 500/B0/002/C (28.06.16)
- Monochrome Site Layout 500/B0/003/C (28.06.16)
- Landscape Scheme and Ecology Enhancement Plan 500/B0/008/B (28.06.16)
- Proposed Gallants Lane Street Scene 501/B0/009/B (28.06.16)
- Car Port, garden Shed and internal boundary treatment detail plan 500/B0/006 (28.06.16)
- Topographical Survey 500/B0/011 (28.06.16)
- Appeal Decision APP/U2235/W/16/3149542 "Land South of Orchard End", Maidstone Road, Warmlake (21.11.16)
- Email from Agent (21.11.16)

8.0 APPRAISAL

Principle of Development

8.01 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that all planning applications must be determined in accordance with the Development Plan unless other material considerations indicate otherwise. In this case the Development Plan comprises the Maidstone Borough-Wide Local Plan 2000 and, as such, the starting point for consideration of the proposal is policy ENV28 which relates to development within the open countryside. The policy states that:

"In the countryside planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers, and development will be confined to:

- (1) that which is reasonably necessary for the purposes of agriculture and forestry; or*
- (2) the winning of minerals; or*
- (3) open air recreation and ancillary buildings providing operational uses only; or*
- (4) the provision of public or institutional uses for which a rural location is justified; or*
- (5) such other exceptions as indicated by policies elsewhere in this plan."*

8.02 None of the exceptions against the general policy of restraint apply, and therefore the proposal represents a departure from the Development Plan. It then falls to be considered firstly whether there are any material considerations which indicate that a decision not in accordance with the Development Plan is justified in the circumstances of this case.

8.03 Notwithstanding the above, Paragraph 49 of the NPPF states that "Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites."

8.04 As the applicant has raised the assertion that the Council does not have a five year land supply for housing, this matter will be addressed for completeness below. However, it

is the harm to the countryside and rural amenities of the locality which would be harmed as a result of the failure to accord with the policies set out above which is more relevant in my view. *[The applicant has submitted three appeal decisions to support his view that the Council does not have a 5 year housing land supply (see Background Papers at section 8 for full details), all of the appeals relate to the Council's position on 5 year housing land supply.]*

8.05 The Maidstone Borough Local Plan was submitted to the Secretary of State for examination on 20 May 2016. The Plan allocates housing sites considered to be in the most appropriate locations for the borough to meet its objectively assessed needs, and the Housing Topic Paper (which was submitted with the Local Plan) demonstrates that the Council has a five-year supply of deliverable housing sites. The independent examination commenced on 4 October 2016, and the hearings are programmed to mid-December. The examination will close following further consultation on modifications to the Local Plan and receipt of the Inspector's final report. Adoption of the Plan is expected spring/summer 2017.

8.06 Housing land supply monitoring is undertaken at a base date of 1 April each year. The Council's five-year housing land supply position includes dwellings completed since 1 April 2011, extant planning permissions, Local Plan allocations, and a windfall allowance from small sites (1-4 units). The methodology used is PPG-compliant in that it delivers the under-supply of dwellings in the past five years over the next five years; it applies a discount rate for the non-implementation of extant sites; and, in conformity with the NPPF paragraph 47, a 5% buffer is applied given the position that is set out in full in the Housing Topic Paper. As at 1 April 2016 the Council can demonstrate **5.12 years'** worth of deliverable housing sites against its objectively assessed need of 18,560 dwellings.

8.07 In September 2016, a desktop exercise was completed in order to test how the Council is continuing to meet its 20-year and five-year housing targets. Using the same methodology, the housing land supply calculation was rolled forward five months; the contribution from new planning permissions granted since April was included; the phased delivery of extant permissions and Local Plan allocations was reviewed; and the windfall contribution was adjusted to avoid double counting. The Housing Topic Paper Update reaffirmed that the Council's five-year housing land supply position is robust and that the assumptions being made are justified, demonstrating an illustrative uplift in the Council's position to 5.71 years. The purpose of the update was to show an indicative position as at 1 September: the update does not replace the 1 April 2016 Topic Paper because a full survey was not undertaken in September. A full five-year housing land supply update will be completed through the annual housing information audit to produce the 1 April 2017 position.

8.08 It is accepted that the most recent appeal decision submitted by the agent (November 2016) finds that the Council does not have a five year housing land supply, based on the submission of the Draft Local Plan and May Housing Topic paper. However, as set out above, the position of 5 year housing land supply has evolved since that appeal was heard (6th September 2016) through the publication of a September 2016 update as set out above. It is therefore considered that the materiality which can be attributed to the 5YHLS has increased since the November 2016 appeal hearing date (6 September 2016) and, as such, the presumption in favour of sustainable development still does not apply.

8.09 Moreover, a further appeal decision has been received (dated 9 December 2016) which relates to "Land North of Lenham Road, Headcorn" PINS reference APP/U2235/W/16/3151144, and within which the Inspector has concluded, against a four stage argument against MBC having a 5YHLS, that "it is more likely than not that there is currently a 5YHLS." This Inspector in the Headcorn case took in to account the recent September update to the Housing Topic Paper which were absent from the appeal decisions referred to by the applicant in this case at East Farleigh.

8.10 Finally, policies ENV28 and SP17 are up to date which do not allow for this scale of residential development. Whilst there may be justification for Local Needs Housing within the countryside, this is an exception and the impacts/need for such development will be considered below.

8.11 Detailed consideration shall now take place as to whether the adverse impacts of the development (dis-benefits) would be outweighed by other material considerations (benefits).

Visual Amenity and Impact on the Character and Appearance of the Countryside

8.12 Paragraph 17 of the NPPF states 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.

8.13 Paragraph 56 of the NPPF attaches great importance to the design of the built environment and considers it key to sustainable development. It is indivisible from good planning and should contribute positively towards making places better for people.

8.14 Paragraph 58 of the NPPF states that developments should function well and add to the overall quality of an area, establish a strong sense of place, optimise the potential of the site to accommodate development, respond to local character and history, create safe and accessible environments and be visually attractive as a result of good architecture and appropriate landscaping.

8.15 Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. The intrinsic character and beauty of the countryside should be recognised.

8.16 The Kent Design Guide (2005) (KDG) emphasises that design solutions should be appropriate to context and the character of the locality. Development should reinforce positive design features of an area; include public areas that draw people together and create a sense of place; avoid a wide variety of building styles or mixtures of materials; form a harmonious composition with surrounding buildings or landscape features; and seek to achieve a sustainable pattern and form of development to reduce the need to travel and improve the local context.

8.17 The Inspector on the 2013 appeal on the nearby site discusses the visual impact of the proposed infilling of an open site. He stated that: The site is “clearly visible... and serves as a green gap together with other areas of vegetation or undeveloped frontages... in the immediate vicinity.” The Inspector is referring to Heath Road in this instance and while the proposal is off Gallants Lane, the same appraisal of open character applies, perhaps even more so. The Inspector goes on to state that “local character... is one of intermittent built form within in a countryside setting.” The current application is a larger site which provides an open, rural and verdant separation between the Heath Road frontage developments and the developments to the north along Gallants Lane, which could be argued to be more important in the establishment of a countryside setting compared to the appeal scheme on Heath Road. The introduction of development within this site would be highly visible when approaching from the south as there is only an open herras fence at present with low shrub planting, and from the north the development would be clearly visible above the 1.6m approx. hedge. This would detract from the “loose knit form of built development which currently exists” as identified by the appeal Inspector for the Heath Road site. In this respect the proposal would harm the rural character of the locality thereby failing to enhance the natural environment as required by Paragraph 7 and 56 of the NPPF. For the same reasons the proposal would fail to accord with Policy ENV28 of the MBWLP

and draft Policy SP17 which seek to protect the character and appearance of the countryside.

8.18 If the design of the houses proposed is taken in isolation, the scheme can be regarded to be well designed and proposes housing which is well laid out without filling the confines of the site and allows for good separation between the two blocks of terraced houses. The design is of a high quality in terms of providing homes with a Kentish vernacular design with the use of tile hanging and plain tiled roofs. There is sufficient variation within each terrace to ensure that the proposal has interest which is enhanced by the differing widths of plots and slight changes in building line and ridge height where appropriate. The parking has been located in close proximity to the dwellings to ensure it would be well used and provides two spaces per dwelling plus two visitor spaces. The scheme also incorporates a good proportion of landscaped areas within the site including the retention of the hedge along Gallants Lane and the creation of an ecological area within the south-eastern corner of the site. It is therefore considered that the design of the proposal, in isolation, conforms to the provisions of national and local policy set out above. However, the introduction of this sub-urban housing development in to this open countryside site would be harmful for the reasons set out above and the design, although good, does not overcome that significant harm.

8.19 I therefore find that the design cannot be correct for this site as it proposes housing in the countryside, therefore eroding the loose knit form of development which is interspersed with built form. The proposal therefore fails to add to the overall quality of the area and would harm the intrinsic character and beauty of the countryside through the loss of this open paddock. In this respect, the proposal fails to accord with Paragraphs 17, 56, 58 and 109 of the NPPF and emerging policies DM1 and DM34 of the MLP.

8.20 Notwithstanding the above, should only five LNH be proposed, and be consolidated at the southern end of the site, close to Victoria Court with the remainder of the site left open, there could be justification, based on local needs housing benefit, to override the harm to the countryside through a more limited development. However, as the proposal also seeks 8 open market homes, this exception cannot be applied to the whole proposal and therefore there is not sufficient justification to allow for the development. It should be noted that no viability statement has been provided that seeks to justify the 8 open market homes as an enabler to provide/supplement the LNH and, as such they would amount to 8 speculative homes within the countryside.

Sustainability

8.21 Paragraph 7 of the NPPF sets out that *“there are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles.”*

8.22 Saved Policy ENV28 of the Maidstone Borough-Wide Local Plan (2000) states that in the countryside, planning permission will not be given for development which harms the character and appearance of the area.

8.23 Policy SP17 of the Submission Version of the Draft Local Plan states that small-scale residential development may be acceptable which meets local housing needs where they do not harm the character and appearance of the area and any impacts can be appropriately mitigated.

8.24 It is acknowledged that Paragraph 49 of the NPPF states that “Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered

up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.” However, the Council can, as stated above, demonstrate a five year supply of housing and accordingly the presumption in favour of sustainable development does not apply. Nevertheless, for completeness the proposal will be considered in terms of its sustainability.

8.25 The Inspector, when considering housing on the site adjacent to the Public House (to the west of the PH and south of the five houses in Victoria Court), 13/0154, took a balanced view on the sustainability of the site. The Inspector, when assessing the sustainability of the site considered the location to have “mixed benefits”, finding that the site is “some distance away from both East Farleigh and Coxheath village boundaries and that access by walking would be unlikely given the distances involved and the lack of footpaths along either route.” He found that “there may be other sites therefore closer to the either village which might be more suitable for new housing.” The Inspector then stated that “however there is a bus stop in close proximity to the site providing services to both Coxheath and Maidstone beyond. The site is also in close proximity to surrounding development, not only along the Heath Road frontage but also to a cluster of housing a short distance to the north along Gallants Lane.” The Inspector also took account of the fact that the Council had approved the 5 affordable housing units in Victoria Court which must have been found to be acceptable in locational terms. In conclusion, the Inspector therefore found that the site “had some advantages from a locational sustainability point of view.”

8.26 As the current application is very close to the appeal site and would be sandwiched between the Heath Road development and the developments along Gallants Lane, the proposal can reasonably be found to have the same locational advantages to the appeal site, which contributes to the environmental role of sustainable development. The proposal therefore meets the locational test of sustainability. However, this in itself does not outweigh the objections to the proposal by being located within the open countryside.

8.27 The proposal would generate employment from the construction of the housing and would marginally increase the economic activity and vitality of the two nearby villages at east Farleigh and Coxheath. Nevertheless these benefits do not hold significant weight in my view as the site is not directly attached to the village boundaries and, whilst the previous Inspector on the nearby site found the site to have some locational benefits it also had dis-benefits. I therefore conclude that the marginal economic benefits of the proposal are outweighed by the likelihood that the majority of trips to the nearby villages, or the town centre are likely to be made by car. The benefits to the economic and social role of the development are therefore limited in my view.

8.28 One of the tests of environmental sustainability is contribution to protecting and enhancing our natural, built and historic environment. As set out at paragraphs 8.17-8.19 above, the proposal has been found to harm the rural character of the locality thereby failing to enhance the natural environment as required by Paragraph 7 and 56 of the NPPF in terms of environmental sustainability and design. For the same reasons the proposal would fail to accord with Policy ENV28 of the MBWLP and draft Policy SP17 which seek to protect the character and appearance of the countryside. The proposal therefore fails to be supported by Paragraph 7 of the NPPF in terms of the environmental role of the scheme.

8.29 In summary, the balance of the three dimensions of sustainability concludes that the proposal fails to meet the tests set out in Paragraph 49 of the NPPF and, accordingly, even if the five year land supply position were found to be unsound, then the proposal is not supported by the presumption in favour and fails in any event.

Affordable Housing

8.30 Maidstone's Affordable Housing DPD (2006) defines affordable housing as "that which is provided with subsidy, for rent and intermediate market housing, for people who are unable to resolve their housing requirements in the local private sector housing market because of the relationship between housing costs and incomes. This definition covers housing for social rent and intermediate housing, i.e. shared ownership, low cost home ownership and sub-market rent." Exceptions sites are defined within the same document as "Small sites within and adjoining existing villages, which may be subject to policies of restraint and which the local plan or LDF would not otherwise release for housing, that can be released to provide for affordable housing to meet local needs in perpetuity."

8.31 It is acknowledged that Policy H30 (Local Needs Housing) of the MBWLP has not been saved, however emerging policy DM14 of the MLP now has weight in the development control process. In the preamble to Policy DM14 it is stated that "*local needs housing seeks to address the lack of general supply by allowing the development of exception sites under agreed local needs, sustainability and environmental criteria. The housing must remain affordable in perpetuity and priority will be given to occupants who have a specified connection to the settlement – often being residential, employment or family.*"

8.32 The application proposes 5 local needs houses (3 affordable rent and 2 shared ownership) which are affordable housing with a further local test applied to seek to house those individuals or families which have a need *and* a local connection to East Farleigh. The Parish Council have updated their Housing Needs Assessment since the 2013 appeal on the site fronting Heath Road which was found by the Inspector to be out of date. The more recent *Housing Needs Assessment November 2014* is considered to be an up-to-date appraisal of local needs within the parish and concludes that the need is as follows: a total of 6 adults and 3 children have a housing need all with a local connection, resulting in a need for 4 affordable homes, 2 couples without children and 2 families. MBC's Housing Enabling Officer has assessed the proposals and agrees that there is a local need for four affordable homes. However, the need can be updated through the information on the Council's Housing Register. In this case, MBC Housing consider that the current need is 2 x 1-beds 1 x 2-bed, 1 x 3-bed. The Applicant has been approached and has agreed that the following will be provided, in line with the updated need: 2 x 1-beds (Affordable Rent) – Plot 10 and 11; 2 x 2-beds (Affordable Rent) – Plots 5 and 6; and 1 x 3-bed (Shared Ownership) – Plot 8. This provision meets MBC's Housing requirement for local need, however there is an over-supply of one unit. MBC Housing consider there is a general need for affordable housing, outside of the local needs assessment, and this additional unit would add to the overall supply of affordable homes within the borough, albeit a local test would be applied to this unit in the first instance.

8.33 Whilst the proposal of 5 LNH has been accepted to provide a sufficient justification to override Policy ENV28 in this instance, the scheme also proposes 8 market houses which do not fall within the same category. Accordingly, although there is provision of LNH within the application, it does not justify the further development of the site with 8 market homes which together would cause significant harm.

Residential Amenity

8.34 The proposed new dwellings are a sufficient distance away from nearby housing (Victoria Court to the south and Crittenden Bungalows to the north) to ensure that no undue level of overlooking, overshadowing or overbearing impact would occur.

8.35 In terms of the proposed houses, the two blocks are a sufficient distance from each other, and orientated away from each other, to ensure that the future occupants would have

sufficient amenity in terms of light, outlook and privacy. The nearest road, Gallants Lane is a relatively quiet rural lane and, as such, no undue impact would occur in terms of road noise. However, the western block of houses is close to the boundary with a builders/reclamation yard which could give rise to noise to the rear elevations of those properties. MBC's Environmental Health Officer has agreed that a noise report and mitigation measures can be reasonably required by condition to deal with the issue of aural amenity for future occupiers. I therefore consider the proposal respects both the amenity of neighbours and that of future occupants thereby complying with Paragraphs 17, 109 and 123 of the NPPF and emerging Policy DM1(iv) of the MLP.

Highways

8.36 The proposal would result in a new access off Victoria Court to the south of the site which then feeds out on to Gallants Lane. KCC Highways have assessed the proposal for its appropriateness in terms of access/visibility and its impact on the wider highway network. KCC have raised no objection to the application on highway grounds. I concur with this view, as the site has good visibility for access on to Victoria Court and, in turn, Victoria Court has good visibility for exiting on to Gallants Lane. The development of 13 houses in this location would not result in an undue impact of highway safety, thereby complying with Paragraph 32 of the NPPF and emerging Policy DM1(ix) of the MLP.

Landscaping

8.37 A detailed landscaping scheme has been submitted as part of the application and proposes a mix of new tree planting, areas of lawn and planting beds. The proposals are sufficiently detailed and would be acceptable, subject to a landscaping condition requiring the scheme to be implemented and maintained. A Landscape management plan would also be capable of being conditioned to ensure the landscaping is appropriately maintained. A hard landscaping scheme could also be conditioned to control the type of block paving and pathways etc.

Ecology

8.38 KCC's Ecological Advisor is satisfied with the preliminary ecological investigation and is satisfied no protected habitats or species would be affected by the proposals. She also welcomes the inclusion of an ecological enhancement area within the site. All of these biodiversity aspects can be appropriately secured through either conditions or informatives in my view.

Contaminated Land

8.39 MBC's Environmental Health Officer is satisfied that the site is not likely to be subject to contaminated soil due to historic uses and maps. A condition which ensures that any unexpected contamination which is found on site is suitably dealt with would therefore be sufficient in my view.

Contributions

8.40 Whilst the applicant is likely to be willing to enter in to an agreement to secure the LNH in perpetuity and other contributions, there is no legal agreement in place at this time and, as such, this must form an additional reason for refusal to the application. The use of a S106 Agreement would be necessary to make the development (part of it in this case) acceptable, would be directly related to the development and the provision of contributions in this case is fairly and reasonably related in scale and kind to the development. This approach is supported by Affordable Housing DPD (2006), Paragraph 204 of the NPPF,

Paragraph 01 of the NPPG (Planning Obligations) and the Community and Infrastructure Levy Regulations 2010.

10.0 CONCLUSION

10.01 In light of the above considerations, the application is recommended for refusal due to the proposal being located within the open countryside where significant harm would be caused to through the introduction of housing in to this open and verdant site. The benefits to the development, being the introduction of 5 LNH units and an ecological area, would not override the harm identified.

11.0 RECOMMENDATION –REFUSE for the following reasons:

1. The proposed development, by virtue of the introduction of a housing scheme in to this open and verdant paddock, would result in harm to the character and appearance of this rural area and consolidate development between Heath Road and Gallants Lane to the north. Similarly, the siting and bulk of the development would, by its very introduction in to this open site, give rise to harm to visual and rural amenity through the urbanisation of the site for housing purposes, thereby failing to respect the landscape character of the locality. The proposal therefore fails to comply with Paragraphs 17, 56, 58 and 109 of the National Planning Policy Framework 2012, Policy ENV28 of the Maidstone Borough Wide Local Plan 2000 and emerging Policies SP17, DM1 and DM34 of the Draft Maidstone Local Plan (Submission Version) 2016.
2. The absence of a legal agreement fails to secure relevant planning contributions for primary schools and libraries or to provide 5 Local Needs Houses in perpetuity. In this respect the proposal fails to comply with Paragraph 204 of the National Planning Policy Framework 2012, Paragraph 01 of the National Planning Practice Guidance (Planning Obligations), the Community and Infrastructure Levy Regulations 2010, the Maidstone Borough Affordable Housing DPD (2006) and Emerging Policies DM14 and DM23 of the Draft Maidstone Local Plan (Submission Version) 2016.

Case Officer: Lucy Harvey

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.