

## Application report

<b>Application Reference:</b>	22/02645/OUT	<b>Date of report:</b>	29/03/2023
<b>Proposal:</b>	Outline application for the development of 50 dwellings with all matters reserved except access.	<b>Case officer:</b>	Anna Horn
<b>Address:</b>	Land South Of Larches, Ashgrove Road, Sevenoaks, Kent		

### Description of site

- 1 The application site is a 2.34 hectare plot located on the western side of Ashgrove Road and the eastern side of Oak Lane. The area is located on the south western side of Sevenoaks Town and lies outside the designated urban confine.
- 2 The character of existing development along the northern and eastern side of Ashgrove Road is predominantly residential, with large detached dwellings on spacious plots set back from the road. On the southern and western side of Ashgrove Road there are parcels of undeveloped green land, occupied by open space, fields and parcels of ancient woodland, giving a rural character to the area. Overall, Ashgrove Lane has a rural character with residential features that have evolved over time.
- 3 The application site is an open parcel of agricultural land, rural in character. The site has been used for the grazing of livestock and is predominantly characterised by open grassland, with mature hedgerows and trees along the boundaries of the site and existing residential properties beyond the site to the north.
- 4 The site lies within the Metropolitan Green Belt and the Kent Downs AONB. The site forms part of the wider open countryside. A Public Right of Way (byway SU36) runs adjacent to the south eastern corner of the plot in a southern direction. The existing access to the site is through a farm gate to the south of the plot on the adjacent field.

### Description of proposal

- 5 Outline consent is sought for the construction of 50 dwellings, 50% of which are proposed to be affordable homes. Matters including design, scale, landscaping, materials and more are reserved, with only the principle and access being assessed as part of this application.

### Relevant planning history

- 6 06/00640/AGRNOT Carrying out on agricultural land development consisting of provision, rearrangement or replacement of private way at Ashgrove Road Sevenoaks. WITHDRAWN.
- 7 21/01814/FUL Formation of new agricultural field vehicle access. New gate. WITHDRAWN.

## **Constraints**

- 8 The following constraints apply:
  - Metropolitan Green Belt
  - Kent Downs Area of Outstanding Natural Beauty (AONB)
  - Public Right of Way at south eastern corner of the site
  - Adjacent heritage assets and non-designated heritage assets

## **Policies**

- 9 National Planning Policy Framework (NPPF)
- 10 Para 11 of the NPPF confirms that there is a presumption in favour of sustainable development, and that development proposals that accord with an up-to-date development plan should be approved without delay.
- 11 Para 11 of the NPPF also states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless:
  - application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (footnote 7); or
  - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 12 Footnote 7 relates to a variety of designations, including SSSIs, Green Belt, AONBs, designated heritage assets and locations at risk of flooding.
- 13 Core Strategy (CS)
  - L01 Distribution of Development
  - L08 The Countryside and Rural Economy
  - SP1 Design of New Development and Conservation
  - SP3 Affordable Housing
  - SP5 Housing Size and Type
  - SP10 Green Infrastructure, Open Space, Sport and Recreation Provision
  - SP11 Biodiversity
- 14 Allocations and Development Management (ADMP)
  - SC1 Sustainable development

- EN1 Design Principles
- EN2 Amenity Protection
- EN4 Heritage
- EN5 Landscape
- EN7 Noise Pollution
- T1 Mitigating Travel Impact
- T2 Parking
- T3 Provision of Vehicle Electric Charging

15 Sevenoaks Neighbourhood Plan (2020-2038) - The Sevenoaks Neighbourhood Plan has been accepted by the Planning Inspectorate and is in the final stages of adoption, yet to go through a referendum. As such, it is considered to hold moderate to significant weight. The following policies are considered relevant:

- Policy C4 - design and residential character areas
- Policy C9 - landscape setting and open countryside
- Policy L1 - biodiversity net gain
- Policy L2 - SuDs, surface water and flood risk
- Policy L4 - trees and hedgerows
- Policy M1 - walking and cycling
- Policy M8 - bus service improvements
- Policy M9 - greener modes of transport
- Policy D3 - housing need and affordable housing

16 Other

- Development in the Green Belt SPD
- Kent Downs AONB Management Plan
- Sevenoaks Residential Character Area Assessment SPD
- Sevenoaks Landscape Character Area Assessment SPD

## Consultations responses

17 Sevenoaks Town Council - Objection - Recommend refusal on the grounds that *“the proposals would be harmful to the Green Belt and Area of Natural Beauty, contrary to SDC Policies LO8, SP1, as well as the NPPF Paragraph 89 which sets out exceptions for when development would be appropriate in the Green Belt - none of which, nor any other exceptional circumstances, this development meets. The plans would also result in a loss of Open Space and Green Infrastructure with an unacceptable impact on the character of the area, contrary to SDC Policy EN2, as well as being against SDC Policy EN5 as it would not preserve the landscape character in an AONB.”*

18 AONB Unit - Objection - Summary of comments:

- Comments look at the Policy Context - The need for housing not considered unusual or exceptional, no evidence demonstrating alternative sites outside of the AONB have been explored or considered, para 11 of the NPPF and the importance of protecting GB and AONB land.

- AONB unit disagrees with aspects of the LVIA provided by the applicant and acknowledges potential for greater landscape and visual impacts than this document suggests. Do not believe the collective benefits amount to exceptional circumstances, in accordance para 177, and that the policy bar of preserving and enhancing has been met.
- Comments also look at the considered impacts on the AONB - 'creep' of built form and diminishing impact on countryside setting, harm identified from proposed access and change in character of this historic sunken lane, all areas of AONB are of equal value and argument that site is not within the 'deep countryside' is not important.

Further comments summarised:

- Comments on the applicant's Rebuttal Statement discussing the appeal decision referenced APP/B1605/W/21/3273053 Land at Oakley Farm, Cheltenham for development of up to 250 dwellings). Discusses the Inspectors commentary on this and that there were specific circumstances applicable to this site that are not applicable to this case. States that the previous position remains unchanged in light of the Rebuttal Statement.

- 19 National Highways - No objection. Initially recommended refusal or extension to obtain more information. Summary: *"Recommends that planning permission not be granted (other than refusal if the Council so wishes) for a period of three months from the date of this response 31st January 2023 to allow the applicant to resolve the outstanding matters. Outstanding matters include data regarding trip rates and generations and trip distribution and assignment."*

Following the re-consultation on the Rebuttal Statement, commented they are content that the proposals, if permitted, would not have an unacceptable impact on the safety, reliability and/or operational efficiency of the Strategic Road Network in the vicinity of the site. No objections.

- 20 KCC Highways - Objection due to highway sustainability - key points include concerns of safety of pedestrians and cyclists, lack of bus routes, unsustainability of site location and visibility required and impact of this upon vegetation and hedgerows. Summary of comments: *"I have major concerns regarding the unsustainable location of this development. Whilst there are a number of minor improvements proposed, none of these are finalised and not yet approved by either the Highway Authority or the bus provider. It therefore remains that the development does not comply with the requirements of Section 9 of the NPPF and high reliance will be placed on the use of the private car for all essential travel. I would therefore recommend refusal of this application on the grounds of non-compliance with the requirements of the NPPF Section 9 unless those travel matters can be resolved that are still in the air."*

Further comments provided, summarised as follows: Single file walking is not appropriate when accompanying elderly or young children, the accepted minimum footway width of 2.0m is required. The improvement of lighting along

Hopgarden Lane has not been agreed with KCC Highways. The fact the length of proposed narrow on-carriageway footway along Ashgrove Road is short does not lessen the safety concerns. The width is not acceptable for highway safety. Reliance of car - proposed improvements have not been finalised with KCC, therefore the scheme does not comply with section 9 of the NPPF. Details of proposed improvements to GoCoach service would need to be agreed with KCC. Stepped footway is not acceptable. Concludes that there are no significant changes to the previous mitigation measures considered that have been fully concluded and agreed by KCC. Upholds previous recommendation to refuse on the grounds that it is an unsustainable location and very much reliant on the use of the private car and not compliant with section 9 of the NPPF.

21 SDC Housing Policy - No objections, notes and welcomes the 50% proposed provision of affordable homes, but requests clarification on the tenure mix. Summary of comments:

- Comments regarding housing mix and updated policy which stipulates any 4 bedroom homes provided as affordable housing should be provided for Social Rented housing only, to ensure the rental cost is affordable to future occupiers.
- The unit type, tenure, size and location of the affordable housing requires discussion and agreement with the Housing Strategy Manager.
- The template S106 should be used.
- It is expected that 5% of homes meet Building Regulation Standard M4(3)(b) - wheelchair housing - and for these homes to be provided as Social Rented and/or Affordable Rented housing.
- Recommends that the applicant should have early dialogue with an affordable housing delivery provider and the list of preferred provider partners is available on the website.

Additional comments provided regarding first homes and a requirements for 5 first homes, states the overriding need within the District is affordable homes for rent, outlines SDCs preferred housing mix for the affordable units in a table. Welcomes the provision of all homes to Building Regulation standard M4(2). Wheelchair accessible housing - M4(3)(b) - advise the applicant is offering three 1 bedroom ground floor flats but advises that SDC would prefer 2 family sized houses, i.e. houses with 2 or 3 bedrooms, provided as Social Rent. Site layout appears to be satisfactory.

22 KCC Ecology - Objection. Initially requested additional information:

- The 5m landscape buffer to northern boundary
- How priority habitat and hedgerows will be protected
- Badgers - license from natural England is not referenced in the report and demonstration that badgers will not be impacted is required
- Great Crested Newts - District level licensing enquiry form is needed prior to determination
- Biodiversity Net Gain in the form of the metric

Further comments raising objections and insufficient information:

- The GCN licencing form is not countersigned by Natural England. Therefore, we cannot see that they have been accepted onto the scheme.
- There is clear development/groundworks within 30m of the main badger sett - we can see no information addressing this concern. In our view, they have not demonstrated that the tunnels lead away from the development and that, therefore, badgers will not be harmed. If it turned out that tunnels went north toward the development, they would likely need to change the layout or get a licence and deliver a new sett for these badgers.
- They have not demonstrated proper safeguarding of the priority habitat.
- Finally, paragraph 174 of the NPPF states that “Planning policies and decisions should contribute to and enhance the natural and local environment by... ..minimising impacts on and providing net gains for biodiversity...”. They have not demonstrated, via the metric that a net-gain can be achieved in our view.

23 SDC Planning Policy - No objections raised. Comments regarding the emerging Local Plan, Green Belt matters, AONB, housing supply and affordable housing and net zero and sustainability matter. Summary of comments:

- Emerging Local Plan - comments regarding the timetable of how the emerging local plan is progressing. The ‘Regulation 18’ Plan has been issued for an 8 week period of consultation on 16th November 2022.
- Green Belt - Stage 1 Green Belt assessment, prepared in 2017, identifies that the site is located on a parcel that is ‘strongly’ performing against these purposes. The Council is preparing a Stage 2 Green Belt Assessment which considers the performance of these parcels in greater detail. These matters will need to be considered as part of the assessment of the applicant’s position that very special circumstances exist to justify inappropriate development on Green Belt land.
- AONB - applicant acknowledges impact on the AONB and little evidence of enhancement.
- Affordable housing - exceeds requirements for affordable units and this is welcomed, no details on mix, no details on accessibility of units, expected that further details will come forwards at reserved matters stage, should application be approved.
- Density and effective use of land - The applicant should be able to demonstrate the steps taken to make best and most efficient use of land across the site, which optimises density in the context of surrounding character and constraints.
- Net Zero - Ensuring the sustainability of the proposed scheme is an important consideration and there appears to be some ambiguity regarding the proposed improvements to public transport services.
- The applicant has chosen to progress the proposals as a planning application and the decision therefore rests on whether the package of measures proposed demonstrates very special circumstances to justify the proposed scheme.

24 Urban Design Officer - Objection - Summary of comments:

- Movement - No safe pedestrian routes, narrow lane, lack of visibility, encourages cars, no safe route for the less mobile, public transport not easily accessible.
- Public Space - south eastern corner road and plot layout not well defined, some plots awkwardly detached from plan.
- Street Frontage - car parking on street elevations unappealing, layout should reflect lane characteristics.
- Nature - the landscape strategy submitted includes positive principles to encourage biodiversity.
- Resources - lack of renewable energy sources, only states PV where possible.
- Overall, scheme fails to meet requirements of para 134 of the NPPF and NDG.

25 Thames Water - No objections with regards to waste water network and sewage treatment works infrastructure capacity. Comments regarding waste and discharge to groundwater sewers, surface water drainage and the sequential approach.

26 Lead Local Flood Authority - No objection in principle - further comments provided on the discharge rate of the surface water sewer, identifies a need for further testing, detailed design of soakaways, information on the swales and the need for further pollution mitigation measures. Suggested conditions regarding calculations of drainage in relation to rainfall events, a detailed SUDs scheme, a verification report and infiltration.

Further comments that they note the amended discharge rate and note that this is to be finalised dependent on results of infiltration testing. No further comments to make and refer to original comments provided.

27 Crime Prevention Design Officer - No objections - Summary of Comments:

- The proposed drawings show a desirable layout and dwelling orientation, footpaths benefit from natural surveillance and defensible spaces and landscaping is incorporated to add additional layer of security.
- The applicant has taken crime prevention into account and it is recommended the applicant attains a SBD certificate to show commitment to crime prevention and community safety.
- Requests a condition to address crime prevention successfully.
- Further comments look at the garden boundary treatments, shared surfaces, car parking, cycle and bin storage, lighting, doorsets, windows and open spaces.

Further comments regarding the applicant's Rebuttal Statement that addresses previous points raised on boundary treatment and parking provision. Comments that they do not support use of shared surfaces. Recommendations are usually

dealt with at a later design stage, recommends condition regarding measures to minimise risk of crime.

- 28 KCC Archaeology - No objection subject to condition - *“The site of proposed development lies in an area of general potential associated with prehistoric and later activity. The site is adjacent to a routeway identifiable on the 1st Ed OS map and may be an earlier routeway. Remains associated with the use of this routeway may survive on site.”* Requested condition regarding archaeological field evaluation works.

Further comment regarding the historic ‘sunken’ lane: *“I note the concerns regarding the adjacent lane and agree that some lanes can be considered to be heritage assets, even archaeological landscape features. A sunken lane is usually “sunken” from use over 100s, if not 1000s, of years, subject to the geology. It is therefore a human made feature of some antiquity and a heritage asset. The Kent HER has not systematically placed historic lanes, or lanes of archaeological importance, on the HER yet but it is recognised that there are many linear archaeological features in our landscape which reflect a prehistoric and/or historic use and are therefore key components of the archaeological and historic landscape. Encourage consideration of the lane as being a heritage asset which merits sympathetic mitigation, even if it is not yet on the HER. It is a non-designated heritage asset being an archaeological landscape feature.”*

- 29 Tree Officer - No objection, comments regarding the visual prominence of the site in the wider landscape and the mature vegetation on the site boundaries. Comments that minimal vegetation loss is expected as a result of the new access. Requests condition of detailed and extensive landscaping scheme for the site.
- 30 Forestry Commission - No objection, comments on the policy context relating to Ancient Woodland and information on the importance and designation of Ancient Woodland. Comments that if the planning authority takes the decision to approve the application they can give further support in developing appropriate conditions and legal agreements in relation to woodland management mitigation or compensation measures.
- 31 Environmental Health - No objection, comments that the development would have an impact upon air quality within nearby air quality management areas. It would be appropriate to require a damage cost analysis for the development and the developer would be required to identify and implement measures for the improvement of air quality in the area to the value of the damage assessment.

Further comment: satisfied with the contaminated land desk-top study and agree contamination is unlikely. The site is a significant distance from the A21 so site may experience some transient noise but it is unlikely to be of a level that would require mitigation measures.



- 32 KCC Public Rights of Way - No objection, comments that byway SU36 abuts the south-easterly corner of the proposed site and the extra footfall that this development of 50 new homes would bring to this Byway and the surrounding network of Public Rights of way could have a major impact on level of maintenance required. For this reason, under section 106, a financial contribution to Public Rights of Way the sum of £20,000 is requested. This will help with the future maintenance of the network of surrounding PROWs. Comments go on to state that the granting of planning permission confers no other permission or consent on the application and that consent would be required from KCC for any works that may impact the Right of Way. The Public Right of Way must not be stopped up, diverted, obstructed or the surface disturbed.
- 33 Natural England - No objection.
- 34 Environment Agency - No comments.
- 35 KCC Economic Development - Requests financial contributions: Primary education - £185,680.00; Secondary education - £207,040.00; Secondary land - £175,715.56; Special Education Needs and Disabilities - £20,206.80; Community Learning - £821.00; Youth Service - £3,275.00; Library Bookstock - £2,772.50; Social Care - £7,344.00. Recommends condition regarding broadband.
- 36 UK Power Networks - Information on gas safety and map details of electrical mains/ equipment in proximity of site.
- 37 Scotia Gas Networks - Information on gas safety and map details of gas mains in proximity of site.
- 38 JSM Plant - Comments include a map showing Zayo Duct and apparatus.

## **Representations**

- 39 Over the four consultation periods, a total of 443 public comments have been received. These are broken down below:
- 40 2 comments of support.
- 41 441 comments objecting to the scheme, raising the following matters (in order of times raised):
- Impact on local traffic and road infrastructure (raised 357 times)
  - Lack of pavements along local roads and concerns of pedestrian and highway user safety (raised 223 times)
  - Pressure on local services including schools and healthcare (raised 213 times)
  - Harm to Green Belt (raised 184 times)
  - Harm to AONB (raised 172 times)

- Concerns with the proposed access including safety, visibility and narrow width of lane (raised 164 times)
- Impacts upon wildlife and biodiversity (raised 94 times)
- Harm of the new dwellings to the character and appearance of the area (raised 78 times)
- Issues of sustainability of development in relation to achieving net zero and a reliance on cars due to the lack of amenities and schools within walking distance (raised 48 times)
- Proximity and harm to ancient woodland (raised 46 times)
- Concerns with surface water on road surfaces, drainage and flooding (raised 35 times)
- Insufficient Very Special Circumstances (raised 33 times)
- Concerns with density and overdevelopment (raised 30 times)
- Increased pollution from cars and traffic (raised 30 times)
- Outside the urban town boundary (raised 19 times)
- The site being a Greenfield not a brownfield site (raised 19 times)
- Harm to the open countryside (raised 18 times)
- Impact upon local utility services (raised 18 times)
- Loss of hedgerow due to access (raised 15 times)
- Impact on neighbours, including overlooking, loss of privacy, noise, overshadowing, and disturbance (raised 14 times)
- Impact on local footpath routes (raised 13 times)
- Lack of public benefit (raised 12 times)
- Unaffordability of homes, will not benefit local people (raised 11 times)
- Proposed access as harmful to the character and appearance of the country lane (raised 9 times)
- Lack of parking facilities (raised 8 times)
- Light pollution from the development (raised 6 times)
- Harm to the Conservation Area (raised 5 times)
- The loss/felling of trees (raised 4 times)
- Support the need for affordable housing (raised 4 times)
- Applicant fails to address concerns (raised 3 times)
- Scale of objections logged (raised 3 times)
- Harm to setting nearby Listed Buildings (raised 2 times)
- Difficulty of emergency service vehicles accessing site (raised 2 times)
- Harm to the North Downs Special Landscape Area (raised 2 times)
- Proximity and harm to Sevenoaks Common (raised 2 times)
- Impact on mental wellbeing (raised 1 time)
- Attenuation pond issues (raised 1 time)
- Increase in crime and lack of police presence (raised 1 time)

## Planning appraisal

42 The main planning considerations are:

- Principle of development and appropriateness in the Green Belt
- Impact on the Openness of the Green Belt
- Visual impact on the character of the area

- Impact to the AONB
- Neighbouring amenity and future occupiers
- Impact to highways and parking
- Heritage and Archaeology
- Drainage and flood risk
- Biodiversity and Ecology
- Affordable Housing
- Public Right of Way
- CIL and S106 Contributions
- Assessment of case for very special circumstances and the planning balance

### **Principle of development and appropriateness in the Green Belt**

- 43 Legislation states that applications must be determined in accordance with the local authority's development plan unless material considerations indicate otherwise. The Council's Development Plan includes the Core Strategy (2011) and the Allocations and Development Management Plan (ADMP) 2015.
- 44 The application site is a 2.34 hectare undulating green field site set to the west of Ashgrove Road. The application site adjoins the south western edge of the Sevenoaks Urban Area, but lies outside of the designated urban confine.
- 45 Policy LO1 of the Core Strategy seeks to direct development to existing settlements with the Sevenoaks Urban Area being the principle focus for development. The location of the application site, whilst adjacent to existing suburbs of Sevenoaks Town, is not considered to be a sustainable location for new development and lies outside the defined urban confines of Sevenoaks. There are no existing footpaths along Ashgrove Road that would connect the site to the surrounding area, creating a reliance on private car as the dominant means of travel to and from the site. The site is considered disconnected in terms of pedestrian accessibility and there is a lack of provision for alternative means of transport. As such, the site is not considered a sustainable location for new residential development.
- 46 Moreover, the application site lies wholly within the Metropolitan Green Belt, which starts immediately outside the Sevenoaks Urban Area Confines. As set out in paragraph 137 of the NPPF: *"the government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence"*. The proposal would fail to maintain the application site as permanently open and free from urban sprawl.
- 47 Paragraph 138 of the NPPF reaffirms that the Green Belt serves five key purposes. The proposed scheme of 50 dwellings over 2.3 hectares of existing open land would fail to meet the first and third purposes of the green belt: to check the unrestricted sprawl of large built-up areas and to assist in safeguarding the countryside from encroachment.

- 48 Additionally, the scale of the proposed development would be substantial and would have a significantly greater impact on the openness of the Green Belt than the existing open and undeveloped character of the site, which is currently free from built form.
- 49 Paragraph 149 of the NPPF states that new buildings in the Green Belt are inappropriate development and the proposed development does not meet any of the exceptions outlined here or in paragraph 150.
- 50 As such, in terms of establishing the principle of development, the proposal amounts to inappropriate development in the Green Belt, and is by definition harmful to the Green Belt. The site does not represent a sustainable location, outside the settlement edge and would rely on the car as the dominant means of travel. This is established due to the disconnected nature of the site in terms of alternative means of transport, including the lack of footpaths along Ashgrove Road connecting the site to the surrounding area and town centre.
- 51 Policy L01 of the Sevenoaks Core Strategy 2011 sets out the distribution of development in the district, stating that: *“development will be focussed within the built confines of existing settlements”*. As a matter of fact, the application site does not lie within the built confines of any existing settlements and is contrary to this policy. The policy goes on to state that: *“in other locations priority will be given to protecting the rural character of the District. Development will only take place where it is compatible with policies for protecting the Green Belt...”*. The proposal for 50 residential units is not considered to be compatible with Green Belt policies, contrary to the aims of policy L01.
- 52 It is acknowledged that policy L01 is deemed to be out of date in relation to housing delivery by virtue of footnote 8 of paragraph 11 of the NPPF. However, as it is in accordance with the National Planning Policy Framework in terms of supporting a sustainable pattern of development and protecting the open countryside and Green Belt, it remains relevant and applicable.
- 53 Policy L08 of the Core Strategy covers matters of the countryside and the rural economy. It states that the extent of the Green Belt will be maintained. The proposal for 50 residential units is not considered compatible with maintaining the Green Belt and is a substantial encroachment into the countryside. The policy goes on to state: *“development that supports the maintenance and diversification of the rural economy, including development for agriculture, forestry, small scale business development and rural tourism, and vitality of local communities will be supported provided it is compatible with policies for protecting the Green Belt...”*. For the reasons outlined above, the proposal is not compatible with policies that seek to protect the Green Belt. Again, policy L08 is deemed to be out of date by reason of the lack of a five year housing land supply, though its main elements remain consistent with the NPPF.
- 54 Due to the conflict identified with Green Belt policy, and other elements of sustainability and countryside protection, the proposal is found to be contrary

to policies LO1 and LO8 of the Core Strategy and the Green Belt protection aims of the NPPF. As such, the principle of development on the site is not supported. The applicant has put forwards a case of very special circumstances. This will be considered later on the report.

## **Impact on the openness of the Green Belt**

55 The development is considered to represent inappropriate development in the Green Belt, which is by definition harmful. This section of the report will focus on the harm to the Green Belt through loss of openness. Openness is an essential characteristic of the Green Belt and is different from visual impact. Openness is about freedom from built form, although it can have a visual element.

### *Assessment of openness*

56 The application site is 2.34ha of open and undeveloped land. The site has been used of the grazing of livestock and is predominantly characterised by open grassland, with mature hedgerows and trees along the boundaries of the site. There is no existing built form on the site.

57 The National Planning Practice Guidance (Paragraph: 001 Reference ID: 64-001-20190722) advises that when assessing the impact of a proposal on the openness of the Green Belt a judgement based on the circumstances of the case is required. It goes on to give three key considerations when making assessments on the openness of the Green Belt.

1. *“Openness is capable of having both spatial and visual aspects - in other words, the visual impact of the proposal may be relevant, as could its volume;”*

58 The Planning Practice Guidance first states that openness is capable of having both spatial and visual impacts, highlighting the need to consider the visual impact as well as the volumetric impact of a development. The introduction of a residential development of 50 dwellings with associated outbuildings, residential curtilages, roads and paraphernalia would result in a substantial bulk, scale, height and massing of development on the currently open and undeveloped site. The development would result in substantial harm to the openness of the Green Belt through spatial and volumetric impact, and will lead to the urbanisation of the site and the loss of the open countryside. Considering the extent of development proposed, the scheme would both spatially and volumetrically harm the openness of the Green Belt. The proposal would involve the permanent and spatial loss of the greenbelt and its openness.

2. *“The duration of the development, and its remediability - taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness;”*

59 The development would have a permanent impact upon the openness of the Green Belt and would not be reversible.

3. *“The degree of activity likely to be generated, such as traffic generation.”*

60 The use of the site for 50 residential dwellings would generate an increase in activity and traffic generation compared to the current use and rural character of the site.

61 When assessed against the three considerations of openness in the Planning Practice Guidance, the development would result in substantial harm to the openness of the Green Belt, both in visual and spatial terms, and would erode the openness of the site and wider parcel of Green Belt land.

#### *Performance of the Green Belt Parcel*

62 The Green Belt Assessment (2017) undertaken by Arup as part of the evidence basis for the new emerging Local Plan (2040) assesses the strength of 100 parcels of Green Belt land across the district. The application site falls within parcel 40. This assessment rates and scores the parcel against the first four purposes of the Green Belt, outlined in Paragraph 138 of the NPPF. It uses a scoring system for each of the criteria of 0-5, outlined below:

- 0 - It does not meet the criteria
- 1 - It meets it weakly or very weakly
- 2 - It meets it relatively weakly
- 3 - It meets the criteria
- 4 - It meets it relatively strongly
- 5 - It meets criteria strongly or very strongly.

63 The assessment of each of the purposes, which is detailed in the Annex Report 1 of the Green Belt Assessment, is summarised below:

#### *Purpose 1 - to check the unrestricted sprawl of large built up areas*

The parcel is at the edge of the settlement of Sevenoaks and is predominantly bounded by features lacking in durability or permanence, such as B-roads and backs of houses, the parcel represents an important barrier to sprawl - score 3+.

#### *Purpose 2 - to prevent neighbouring towns merging*

The parcel forms part of the wider gap between Sevenoaks and Edenbridge and between Sevenoaks and Weald, maintaining the overall openness and scale of the gap - score 1.

#### *Purpose 3 - Assist in safeguarding the countryside from encroachment*

Approximately 2% of the parcel is covered by built form. The parcel is characterised by agricultural fields and concentrated woodland areas throughout, contributing to an unspoilt rural character. Whilst wooded areas may restrict long views, there are mid-length views where the parcel is more open. The parcel has a predominantly rural character - score 4.

*Purpose 4 - to preserve the setting and special character of historic towns*  
Although the parcel is adjacent to the historic town of Sevenoaks, it does not directly abut the historic core area. As such, the parcel does not meet this purpose - score 0.

- 64 The assessment does not assess purpose 5 (paragraph 138e), stating: *“the advice note issued by PAS (Planning Advisory Service) suggests that the amount of land within urban areas that could be developed will already have been factored in before identifying Green Belt land. Therefore, assessment of Green Belt against this purpose will not enable a distinction between Green Belt Parcels as all Green Belt achieves the purpose to the same extent”*.
- 65 Overall, the assessment concludes that the parcel performs strongest against purposes 1 (138a) and 3 (138c). The assessment gives the parcel an overall score in Green Belt terms as ‘strong’ and finds that, when assessed against the purposes of including the land in the Green Belt, this parcel represents strongly performing Green Belt land. As part of the emerging Local Plan, the Council is in the process of undergoing a phase 2 Green Belt Assessment, however, the findings of this report has not yet been published.
- 66 The applicant has put this site forward for the call for sites as part of the Council’s regulation 18 consultation on the newly emerging Local Plan (2040). The regulation 18 consultation has finished now and the next regulation 19 consultation is due to start in the Autumn. As such, further assessment of the suitability of the site for development, as part of the Local Plan consultation process, will be carried out later in the year. That said, the site has already been identified as strongly performing Green Belt land under the 2017 Green Belt Assessment and is clearly unsuitable for development due to the importance of the site in preventing harmful urban sprawl and safeguarding the open countryside from encroachment.
- 67 The Green Belt Appraisal prepared by LDA Design and submitted by the applicant as part of the application offers a counter view to the Green Belt Assessment outlined above. This document assesses the site specifically against purposes 1, 2 and 3, agreeing that the site does not perform as well against purposes 4 and 5. Against purpose 1 LDA Design scores the site 2 in that it meets the purpose relatively weakly. Regarding purpose 2 LDA Design scores the site 1 in that it meets the purpose weakly and purpose 3 is scored 3 as meeting the purpose moderately. Whilst the applicant’s report scores the purposes differently, the NPPF does not require a rating system for the purposes, only that it meets that requirement and purposes. So regardless of the scores, the applicant’s green belt appraisal, shows that the site meets purposes 1 & 3, and therefore agrees with the Council that development results in harmful urban sprawl and fails to safeguard the open countryside from encroachment.
- 68 Overall the Green Belt Appraisal submitted by the applicant considered that the site itself is not strongly performing when assessed against the purposes. It asserts there would be a degree of encroachment into the countryside but that

the development would not impact the role of the site in preventing urban sprawl. LDA Design acknowledge that individual sites cannot be considered in complete isolation and that development of a small scale can affect the overall strategic function and purposes of the Green Belt.

- 69 The Green Belt Appraisal submitted with the application differs from the Arup assessment as it covers just the application site and does not include an assessment of the role of the wider parcel in which the site lies. Given the scale at which Green Belts operate, the Council considers that this sort of site level appraisal needs to be approached with caution. There will be very few sites that, by themselves, can be said to achieve as many of the purposes as the wider parcels but that does not mean that they do not make an important contribution to the overall aim of Green Belt, that being their openness and permanence (paragraph 137 of the NPPF).
- 70 The Council views the site as part of an important piece of strongly performing Green Belt land, forming a natural edge to the town's suburbs. The parcel has a very low percentage of built form, contributing strongly to the rural character of the parcel. The development site itself has no existing built form and as such has a strong rural character. Development of this site would erode the countryside character of the area and urbanise the rural character of the location. The Council agrees with the Arup Green Belt Assessment study in that this is strongly performing Green Belt land against the objectives and purposes of Green Belt sites.
- 71 As for the impact on the openness of the Green Belt, it is proposed to develop the majority of the site, with some parts provided as open space and for SuDs. Considering the extent and level of development proposed, the scheme would significantly change the settlement pattern of the area to the detriment of openness of the Green Belt which the policies in the NPPF seek to resist. The application site is within a strongly performing Green Belt parcel, its strong and distinct rural and open character would be permanently lost to the development.
- 72 In summary, the nature of the proposal is in conflict with Paragraph 137 of the NPPF which identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Of the five purposes included in Paragraph 138, the scheme would undermine a) and c) which seek to restrict the sprawl of large built up areas and assist in safeguarding of the countryside from encroachment. Therefore, the proposal will result in very substantial harm to the openness of the Green Belt, with some 2.3 hectares of open Green Belt land permanently lost.

## **Visual Impact on the character of the area**

### *Policy context*

- 73 Paragraph 130 of the NPPF lists certain design criteria that should be considered when assessing new developments. It states that decisions should



ensure developments add to the overall quality of an area, are visually attractive, sympathetic to the local character, establish a strong sense of place, optimise the use of the site and create safe, inclusive and accessible places. Paragraph 134 of the NPPF states that development that is not well designed should be refused.

- 74 Policy SP1 of the Core Strategy and EN1 of the Allocations and Development Management Plan state that all new development should be designed to a high quality and should respond to the distinctive local character of the area in which it is situated. Policy EN1 of the ADMP also states that the form of proposed development should be compatible in terms of scale, height, density and site coverage with other buildings in the locality. The design should be in harmony with adjoining buildings and incorporate materials and landscaping of a high standard.

*Site context and assessment of existing character*

- 75 The site lies adjacent to two residential character areas as defined in the Sevenoaks Residential Character Area Assessment SPD, areas H01 (Hopgarden Lane) and B08 (Ashgrove Road).
- 76 Regarding the residential character area of H01, the SPD describes the area as characterised by large individually designed dwellings ranging from two storeys to bungalows that are set back from the road behind hedged and well landscaped frontages. The buildings appear well screened and mostly have a minimal impact upon the street scene, with the lanes having a verdant well landscaped appearance. In both character assessments H01 and B08, Oak Lane and Ashgrove Road are described as narrow, undulating and winding tree-lined lanes with no footways, creating an informal rural character and identified as a positive design feature in the SPD. Hedges and trees abut the lanes and development is well hidden by vegetation and narrow entrances, giving a strong sense of enclosure to both Oak Lane and Ashgrove Road, again identified as a positive design feature of the area surrounding the site.
- 77 Design guidance in the SPD advises that new buildings should be well screened and set back from front boundaries to avoid a significant impact on the rural character of the lanes and that mature trees and hedged boundaries which contribute to the character of a lane should be retained. It states that the rural character of the lanes at the edges of the defined areas should be retained.
- 78 The residential character area B08 covers a smaller area and similarly describes the rural character of Ashgrove Road and Oak Lane. It identifies the three pairs of semi-detached properties that lie to the north of the application site that are uniform in design, forming a cohesive group. The design guidance for this area emphasises the rural character of Ashgrove Road as a positive design feature that should be maintained, along with the traditional design features and material pallet of the existing properties here.
- 79 In terms of the landscape character area, the site lies within the Sevenoaks Western Chart landscape area. This area is within the Kent Downs AONB, which

is assessed later in the report. The Sevenoaks Landscape Character Assessment SPD identifies the key characteristics of the Western Chart as undulating woodland and agricultural landscapes, describing it as a generally enclosed landscape with some views over the Low Weald to the south. The landscape area is also characterised by narrow, rural and wooded lanes throughout, although the A21 crosses the area to the west of Sevenoaks. The landscape guidance emphasises the need to conserve the enclosed and narrow lanes and conserve the tranquillity and rural character of the landscape.

- 80 The site is a 2.34 hectare plot that lies to the west of Ashgrove Road and the east of Oak Lane. The site currently comprises an open parcel of undeveloped land and, whilst the site is adjacent to the settlement edge of Sevenoaks, it lies outside of the urban confines and is therefore considered to be part of the wider open countryside. The site has been used for the grazing of livestock and is predominantly characterised by open grassland, with mature hedgerows and trees along the boundaries of the site.
- 81 The north of the site is flanked by existing residential development, with the gardens and curtilages of these properties backing onto the northern site boundary. The east of the site is flanked by Ashgrove Road and the large detached properties that lie to the east of this lane. The south of the site is flanked by a large open field and the western side of the site is flanked by Oak Lane, with green open countryside beyond and the A21 some 430m from the western boundary of the site. On two sides the site is flanked by open, green and verdant countryside. As assessed in both the Residential Character Area Assessment and Landscape Character Assessment SPDs, Ashgrove Road and Oak Lane have very clear rural characters. This side of Ashgrove Road has parcels of undeveloped green land, occupied by open space, fields and parcels of ancient woodland, which contribute to the established rural character of the area.
- 82 The site itself is considered to play an important role in contributing to the rural character of both Ashgrove Road and Oak Lane. Whilst the applicant describes the site as having a 'semi-rural' character, the site is considered by the Council to be rural in character, providing an important open green space that clearly denotes the settlement edge of Sevenoaks and represents the start of the open countryside. Consequently the site is considered to be crucial to the established rural character of the area and is a vital green space that clearly marks the transition from the settlement edge to the open countryside.

### *The proposal*

- 83 The proposal would result in the construction of 50 dwellings. An indicative masterplan and site layout has been provided. The dwellings appear spread across the site in a fairly organic layout, with active frontages maintained looking to the east, south and west from within the site. There is a single vehicular access proposed into the development taken from Ashgrove Road and two pedestrian accesses also proposed from Ashgrove Road. There are attenuation ponds flanking the vehicle access on the eastern side of the site and a provision of public green space in the south west corner of the site. Whilst this is an indicative plan, and the more detailed design elements would

be assessed at a reserved matters stage, there are some concerns with the proposal and indicative layout.

### *Movement, Access and Connectivity*

84 The NPPF seeks to promote active, inclusive and sustainable forms of transport and movement. This is reflected in The National Design Guide through the need for development to minimise car dependency and to create safe and accessible routes for active travel. There would be a lack of safe pedestrian routes to the site as Ashgrove Road is a narrow rural lane and is not bound by footpaths. The closest footpath linked to the main network with Sevenoaks is located on Hopgarden Lane, some 100 metres east along Ashgrove Road from the site. Ashgrove Road is a narrow lane with relatively low levels of lighting and large levels of tree cover which further creates a lack of visibility. Whilst two pedestrian accesses are proposed into the site, they are not linked to an existing footpath network and appear to be stepped in design, hence will not provide a safe or accessible route for those who are less mobile. Therefore, the lack of pedestrian links will encourage the use of private vehicles. Public transport, such as bus routes, are not easily accessible either from the site. Accessing the nearest bus route would require walking along a stretch of Ashgrove Road which has no pavement. The scheme is therefore not considered to meet the national requirement to encourage active travel. Whilst the applicant is proposing some enhancements to local footpaths and community transport, these discussions have not been formalised or confirmed through a signed S106.

### *Public space and Legibility*

- 85 The road and plot layout in the south-eastern corner of the site is not considered to be well defined. Plots 01, 02, 22 and 23 appear detached from the development as a whole and cause unclear pedestrian routes, roads and general settlement patterns. The development should comprise well connected streets that are clearly defined to contribute to wayfinding and efficient movement networks.
- 86 With regards to the indicative street frontages, the car parking occupies a large proportion of the street elevations which creates visually unappealing frontages. The surrounding pattern of residential development along Ashgrove Road and Hopgarden Lane is largely defined by green and well landscaped frontages, identified as positive character features of the surrounding area. The indicative street plans appear more dominated by vehicular parking and should reflect the surrounding characteristics to ensure the development sits harmoniously within its context.
- 87 The presence of nature and green space is another key characteristic of the surrounding area, and the positive principles in the landscape strategy to encourage biodiversity are noted. It is considered that there is a lack of renewable energy sources and the Council recommends this be explored further at a more detailed design stage to ensure renewable energy solutions are incorporated into the development.

## *Summary*

- 88 Overall, there are some key concerns at this stage regarding the indicative layout. The Urban Design Officer is not supportive of the scheme, stating the proposal currently fails to meet a number of requirements to consider it a well-designed place, as defined in paragraph 134 of the NPPF. Whilst some of the more specific concerns raised with the indicative layout could be addressed at the reserved matters stage, there are fundamental concerns in terms of accessibility, sustainability and connectivity with the site as a whole.
- 89 Moreover, the access would be taken from Ashgrove Road and would involve the removal of some of the hedgerow and landscaping along this part of Ashgrove Road. Whilst the rest of Ashgrove Road would largely retain its rural sense of enclosure and landscaped edges, the creation of a new residential access would urbanise this part of Ashgrove Road. This in turn would erode the rural character of the lane and the development as a whole would be considered visually harmful to the rural character of the area.
- 90 Further concern relates to the loss of the site as an important green buffer between the edge of Sevenoaks and the open countryside. The site clearly marks the edge of the settlement and the start of the open countryside. The loss of this open and undeveloped site would be a harmful encroachment into the open countryside and would erode the important spatial character along this side of Ashgrove Road. The development would be considered to urbanise the area which would visually harm and erode the rural features that contribute to, and define, the character of Ashgrove Road and Oak Lane.
- 91 The applicant has submitted a Landscape and Visual Impact Assessment (LVIA) prepared by LDA Design. This states that a large-scale visual effect would occur within the site and immediate context of the site, where there would be a visible change to the landscape. However, beyond the extent of the site and the immediate context, it states that the effects on landscape character would decrease to a negligible scale. Further, in the AONB Appraisal document submitted by the applicant, it is further considered that any potential landscape harm or impacts can be mitigated through retaining and enhancing existing features on the site, including the boundary vegetation and the pond, incorporating elements of the local vernacular into the architectural design and creating new opportunities to access the site. However, the Council consider the degree of harm to the character and appearance of the area and the visual harm through encroachment into the countryside to be significant and cannot reasonably be mitigated through high quality and sensitive design alone.
- 92 In summary, while enhancements to the accessibility of the site and green space may be proposed, the built development and associated works will erode the rural character of the site and the surrounding area. This would result in an urbanised area and will extend the built suburbs and built development of Sevenoaks further into the open countryside. The proposed development is not considered to respond to the local rural character of the area, including Ashgrove Road and Oak Lane, and thus is contrary to policy EN1 of the

Sevenoaks Allocations and Development Management Plan as well as LO8 and SP1 of the Sevenoaks Core Strategy.

## Impact on the AONB

### *Policy Context*

- 93 The site lies wholly in the Kent Downs Area of Outstanding Natural Beauty (AONB). Paragraph 176 of the NPPF states that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty which have the highest status of protection. It goes on to state that the scale and extent of development within designated areas should be limited.
- 94 Paragraph 177 of the NPPF goes on to state that when considering applications for development within Areas of Outstanding Natural Beauty, permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest.
- 95 Footnote 60 states that whether a proposal is ‘major development’ is a matter for the decision maker, taking into account the nature, scale and setting of the development, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.
- 96 As per paragraph 177, in considering applications the following points should be included in the assessment:
- a) The need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;*
  - b) The cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and*
  - c) Any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.*
- 97 Local Policy EN5 of the ADMP is considered to be consistent with the principles of the NPPF and states that the Kent Downs Area of Outstanding Natural Beauty and the setting will be given the highest status of protection in relation to landscape and scenic beauty. Proposals within the AONB will be permitted where the form, scale, materials and design will conserve and enhance the character of the landscape and have regard to the relevant Management Plan and associated guidance.
- 98 The Countryside and Rights of Way Act 2000 states that the Local Planning Authority should conserve and enhance Areas of Outstanding Natural Beauty. Designating an Area of Outstanding Natural Beauty protects its distinctive character and natural beauty and can include human settlement and development. There are therefore two considerations directly related to a

site's AONB status when determining a planning application. Firstly, does the application conserve the AONB and secondly, if it does conserve the AONB does it result in an enhancement. A failure to achieve both of these points will result in a conflict with the requirements of the Act.

- 99 The Kent Downs AONB Management Plan is prepared by the AONB Unit and is adopted by Sevenoaks District Council and therefore is also a material planning consideration. The management plan reinforces the need for local character, qualities, distinctiveness and natural resources of the Kent Downs AONB to be conserved and enhanced. SD11 states: *“Major development should avoid the Kent Downs AONB in line with NPPF guidance. Where it is decided that development will take place that will have a negative impact on the landscape character, characteristics and qualities of the Kent Downs AONB or its setting, mitigation and or compensatory measures appropriate to the national importance of the Kent Downs landscape will be identified, pursued, implemented and maintained.”*

- 100 Policy C9 of the Sevenoaks Neighbourhood Plan states that development will be supported where it protects and enhances the landscape setting and character of the town and visibility to and from the open countryside.

*Does the application constitute major development?*

- 101 In line with paragraph 177 of the NPPF it is important to establish if the development proposal can be considered major development. Taking into account the current undeveloped and rural nature of the land that would be affected and the scale of the proposed development, it is considered that the proposal would constitute major development in the AONB for the purposes of assessment under Paragraph 177 of the NPPF. In line with footnote 60 of the NPPF, the nature of the development is such that it could have a significant adverse impact on the landscape and scenic beauty of the AONB. As such, the application needs to be assessed against both paragraphs 176 and 177 of the NPPF.

*Qualities and sensitivity of the landscape*

- 102 The Landscape Sensitivity Assessment (2017) undertaken by LUC as part of the evidence basis for the new emerging Local Plan (2040) assesses the sensitivity of land around key settlements. The application site lies within the south-western edge of Sevenoaks (area S3) and adjoins the Sevenoaks Western Chart landscape character area. This assessment states that the undulating nature of the area and the presence of some steep slopes indicate a higher sensitivity to development. The area is considered as highly rural in character, with high scenic value and the presence of historic landscape features including woodland, historic fields and commons. Overall, despite the location adjacent to the edge of Sevenoaks and the perceived sense of enclosure, the area is assessed as having a medium-high sensitivity for new housing development due to the highly rural character. The assessment gives guidance for new development in this area, including the need to retain the highly rural character, retain wooded areas, be of suitable density for the area and retain

the character of narrow lanes, avoiding the widening of roads and using suburban features such as kerbs and street lighting.

103 The Landscape Assessment of the Kent Downs AONB also assesses the qualities and characteristics of this area as part of the wider Sevenoaks Greensand Ridge Character Area. This identifies some key characteristics as the woodland cover, areas of semi-natural habitat, low density of settlement and the network of historic lanes and tracks. Recommendations outlined in this assessment include:

- Protecting the undeveloped, tranquil and historic rural character of the area;
- Retaining and managing hedgerows along narrow, vergeless lanes;
- Maintaining verges/ banks, passing places, drains and ditches;
- Conserving the routes and characteristics of the Greensand drove roads;
- Ensuring any new development is well-integrated into the landscape (using tree, woodland and hedgerow planting) and on a suitable scale.

104 Despite the proximity of the site to the urban edge of Sevenoaks, it is considered to be rural in character, comprising an undeveloped grassed field which includes established hedgerows and trees. Therefore, the site is considered to be largely reflective of the special characteristics of the immediate landscape area and the wider AONB. Overall, the site is considered to make a positive contribution to the landscape and scenic beauty of the Kent Downs AONB and is considered to have a medium to high sensitivity to new residential development.

#### *NPPF Tests and Impact on the AONB*

105 As per paragraph 177 of the NPPF, major development in the AONB, which this application is considered to be, should be refused except in exceptional circumstances or where the development is in the public interest. As such, for the development to be considered to be in the public interest, the potential benefits must outweigh the national significance of conserving and enhancing the natural beauty of the AONB.

106 Paragraph 177 goes on to provide three criteria that should form part of the assessment of development in the AONB. These are assessed in turn below:

- a) The need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy.*

107 In terms of need for the development, the applicant makes reference to the Council's lack of a five year housing land supply and shortage of affordable housing to demonstrate the need for the development. The Council acknowledges its lack of a five year housing land supply and the shortage of affordable housing delivery. The Council is in the process of reviewing housing need through the emerging Local Plan (2040) which has undergone a regulation

18 consultation, with the regulation 19 consultation due to take place in the autumn.

108 NPPF paragraph 11 makes it clear that AONB designation can provide a strong reason for restricting the overall scale, type or distribution of development in the plan area. This is reinforced in the Planning Practice Guidance (Paragraph: 041 Reference ID: 8-041-20190721) which responds to the question how should development within AONBs be approached with the following: *“The National Planning Policy Framework makes clear that the scale and extent of development in these areas should be limited, in view of the importance of conserving and enhancing their landscapes and scenic beauty. Its policies for protecting these areas may mean that it is not possible to meet objectively assessed needs for development in full through the plan-making process, and they are unlikely to be suitable areas for accommodating unmet needs from adjoining (non-designated) areas”*. As such, the matter of the appropriate level of housing provision in Sevenoaks District should be resolved through the Local Plan process and not through individual planning applications.

109 Additionally, it is contended that the need for housing in Sevenoaks is not considered ‘exceptional’ as it reflects a wider national picture. In the context of the “need” considerations set out in paragraph 177(a), housing need alone is not considered to equate to exceptional circumstances or a level of public interest that would outweigh the protection of the AONB. This is demonstrated in an appeal decision on a site in Horsham (APP/P/Z3825/W/21/3266503), where the appellant argued that housing need contributed to the exceptional circumstances case. Here the Inspector stated that (paragraph 119) *“I recognise that the identified benefits in relation to housing matters would clearly be in the public interest. However, the reality is that the circumstances of the housing shortfall, including huge challenges around providing for affordable housing and self-build and custom-build housing, are not unusual”*. In light of this, it is considered that the same conclusion applies in respect of this application and that the identified housing need, particularly affordable housing, does not equate to ‘exceptional’ as required under paragraph 177 of the NPPF.

110 It is acknowledged that housing is associated with economic benefits. There would be some short-term economic benefit from both construction, and additional benefit from occupation of the dwellings. However, the economic benefits associated with this proposed development would be in the order of any other housing scheme of this size, and this is not regarded by the Council as exceptional or in public interest.

*b) The cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way.*

111 It is accepted that the District is constrained to a large degree by Green Belt and AONB designation, however, the applicant has not demonstrated that there are not suitable alternatives to meeting the identified housing requirement outside of the designated area. NPPF paragraph 11 makes it clear that constraints such as Green Belt and AONB designation can restrict overall



housing provision. Even if it is necessary to allocate some development within the AONB that does not mean that such provision should be in the form of major development sites such as this. Therefore this ground has been justified and therefore it is not exceptional or in the public interest.

- c) Any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.*

112 The application proposes a residential development comprising 50 dwellings with access roads and parking areas that would be considered an urban intrusion onto the site, which would undermine its characteristically open, green and undeveloped nature. Even with the proposed retention of existing boundary vegetation and the provision of an area of open space along the southern boundary of the site, the proposal would represent a gradual ‘creep’ of built form into the AONB and extend, rather than soften, the settlement edge, diminishing Sevenoaks’s countryside setting.

113 There are further concerns with the harm that would arise as a result of the proposed access into the site from Ashgrove Road. The proposal would result in a change in character of this historic sunken lane, identified as a key characteristic of the landscape area and identified by KCC Archaeology as a non-designated heritage asset being an important archaeological landscape feature. The proposal would cut through the existing characteristic bank and hedgerow with the formation of an urbanised residential access which results in a harmful loss of rural character. The narrow and sunken nature of historic lanes in this particular part of the Kent Downs is specifically identified in the Landscape Character Assessment of the Kent Downs, as referred to above, with the recommendation that their characteristics are conserved. The proposed access would be considered to have a harmful landscape impact that would fail to conserve and enhance the landscape character of this part of the AONB.

114 The applicant has submitted a Landscape and Visual Impact Assessment (LVIA) prepared by LDA Design. This states that a large-scale visual effect would occur within the site and immediate context of the site, where there would be a visible change to the landscape. However, beyond the extent of the site and the immediate context, it states that the effects on landscape character would decrease to a negligible scale. The AONB Appraisal assesses the site against a series of natural beauty indicators and concludes that any potential landscape harm or impacts can be mitigated through retaining and enhancing existing features on the site, including the boundary vegetation and the pond, incorporating elements of the local vernacular into the architectural design and creating new opportunities to access the site. The applicant justifies the acceptability of the proposal on the basis that the site is considered to make a limited contribution to the natural beauty of the AONB, due to its size, location and lack of public accessibility. The applicant asserts that the location of the site adjacent to the urban edge of Sevenoaks reduces its sense of remoteness and tranquillity.

115 Whilst the site is relatively contained within the wider landscape, due to topography and the presence of strongly vegetated boundaries, and the development may not affect wider long distance views, the NPPF is unambiguous in relation to its policy on AONBs, requiring protection of the landscape itself, as well as the scenic beauty of an AONB. This protection is principally independent of the extent of public views of a development and more in respect of the protection of the land. Additionally, under the designation, all areas of the AONB are of equal value and the fact that the site is not within 'deep' countryside is not considered relevant to the level of protection it benefits from. Legislation and policy give equal protection to all parts of the AONB, regardless of the size of the site or proximity to settlements.

116 The Kent Downs AONB covers a wide and large expanse of area and any development which detracts from elements which contribute to that wider natural and scenic beauty will fail conserve or enhance it. The Council does not agree with the LVIA findings submitted by the applicant and considers the landscape and visual impacts of the proposal to be severe, and that the proposal would fail to conserve or enhance the landscape and scenic beauty of the AONB. The harmful impacts identified from the development are not considered to be easily moderated or mitigated against.

117 The appeal decision referenced in the applicant's Rebuttal Document has very specific circumstances which informed the Inspectors decision (APP/B1605/W/21/3273053 Land at Oakley Farm, Cheltenham for development of up to 250 dwellings). The site was surrounded on three and a half sides by existing housing development, much of it at relatively high density, and with an engineered landscape on the fourth side (reservoirs and brick walls). The Inspector was clear that the decision was based on the very specific circumstances associated with the case, including the site characteristics, which they advised were unlikely to be replicated elsewhere. The specific factors to this site were critical in the Inspector deciding to allow the appeal, as per paragraphs 14, 34, 35, 110, 112, 116, 121 and particularly 122 of the Inspectors decision.

### *Summary*

118 In determining the planning application under AONB policy, the decision maker is required to refuse the application unless they are satisfied that (i) there are exceptional circumstances, and (ii) it is demonstrated that, despite giving great weight to conserving the landscape and scenic beauty in the AONB, the development is in the public interest.

119 The proposal would provide 50 new dwellings, including 50% affordable homes and proposed enhancements to footways and community transport. The benefits put forwards by the applicant are not considered to amount to exceptional circumstances either individually or cumulatively that would justify the significant harms identified to the site and wider impacts on the AONB.

- 120 It is acknowledged that the proposal has sought to incorporate measures to mitigate the impacts on the AONB, including retaining and enhancing boundary vegetation and avoiding significant groundworks (e.g cut and fill). That said, the proposal would nevertheless result in residual harm to the landscape character of the countryside and the AONB, and therefore conflict with both the local plan and NPPF policies 176 and 177 that require the conservation and enhancement of AONBs. As such, the Council does not consider that the tests in the NPPF and local planning policy have been met.
- 121 Additionally, the AONB Unit objections to the scheme, raising concerns that the proposal does not represent exceptional circumstances nor is in the public interest. In the comments received from the AONB Unit, it is stressed that AONBs are landscapes whose distinctive character and natural beauty are so outstanding that it is in the nation's interest to safeguard them.
- 122 Taking the above into account, the proposal would fail to conserve and enhance the distinctive character of the AONB and is therefore contrary to policies LO8 of the Core Strategy, EN5 of the Allocations and Development Management Plan and policy C9 of the Sevenoaks Neighbourhood Plan. It is also in conflict with the NPPF, in particular paragraphs 176 and 177, which places the AONB into a special category of protection, requires great weight to be given to their conservation and enhancement, for development to be limited in scale and extent and for major development to only be permitted in exceptional circumstances.

### **Neighbouring Amenity & Future Occupiers**

- 123 Policy EN2 of the ADMP requires proposals to provide adequate residential amenities for existing and future occupiers of the development, while ensuring it would not result in excessive overlooking, visual intrusion, vibration, odour, air pollution, vehicle movements, or a loss of privacy and light enjoyed by the occupiers of nearby properties and occupants of future developments.
- 124 The proposed development would not result in a loss of amenity for existing neighbouring properties. The proposed dwellings are adequately separated from those on Ashgrove Road and Oak Lane that are within proximity to the site. There is a 5m landscape buffer proposed along the northern site boundary and the new dwellings would be some 30m at the closest point and some 40m at the furthest point from the existing properties to the north of the site.
- 125 Regarding the existing dwellings on the eastern side of Ashgrove Road, to the east of the site, the new dwellings would be some 40m plus from these properties and are set back within the site with a green frontage maintained as a visual buffer to these existing dwellings. The new dwellings would also be separated from the properties located to the south east of the site, further down Ashgrove Road, with a wooded buffer also demonstrated in the south eastern corner of the site.

- 126 It is acknowledged that the development of the site will result in a loss of outlook across the countryside through which many of the dwellings on the aforementioned roads benefit from. Moreover, there will be a perceived loss of green space, which is a positive feature of the area, and understandably there have been concerns raised about this in the public representations received. These factors are noted, though they do not form a reason for refusal in terms of neighbouring amenity on this occasion. The issues of noise generation (particularly during construction), increased air pollution, impact on schools, doctors and other services are all noted. However, much of this is controllable through conditions and through investment from Community Infrastructure Levy funds.
- 127 In terms of the amenity for future occupiers of the development, due to the proposal being at outline stage the internal layout and design of the dwellings to maximise natural light, ventilation and high quality living space, is not able to be assessed. However, the masterplan submitted gives an impression of the external amenity spaces for the proposed dwellings. The dwellings appear to be reasonably spaced and would appear to meet the guidance of the National Model Design Code in terms of separation distances.
- 128 Overall, given the separation distances and the relationships between the site and the surrounding dwellings, it is considered that the development would not harm the amenities of surrounding neighbours in terms of overlooking, loss of privacy, outlook, loss of daylight and loss of sunlight. The proposed development would allow for adequate levels of amenity for future occupiers of the dwellings and the more detailed design can be assessed at a reserved matters stage. The proposal would comply with policies relating to existing and future amenity in the NPPF and policy EN2 of the Allocations and Development Management Plan.

### **Impact to Highways and Parking**

- 129 Policy EN1 of the ADMP states that proposals that would ensure satisfactory means of access for vehicles and pedestrians and provide adequate parking and refuse facilities will be permitted. Policy T2 of the ADMP states that vehicle parking provision in residential developments should be in accordance with the current KCC vehicle parking standards (appendix 2 of the ADMP).
- 130 Policy T1 of the Allocations and Development Management Plan states *“New developments will be required to mitigate any adverse travel impacts, including their impact on congestion and safety, environmental impact, such as noise and tranquillity, pollution and impact on amenity and health. This may mean ensuring adequate provision is made for integrated and improved transport infrastructure or other appropriate mitigation measures, through direct improvements and/or developer contributions”*.
- 131 Policy M1 of the Sevenoaks Neighbourhood Plan supports walking and cycling and promotes the removal of barriers to pedestrian and cycle movements. Policy M8 states that enhancements to bus services to serve the town will be

supported and policy M9 encourages the shift to ‘greener modes of transport’.

### *Parking*

132 The masterplan indicates sufficient space reserved for car parking along with garages for some properties. The applicant has indicated that 109 parking spaces will be provided, broken down as follows:

- 1-bed dwellings allocated 1 space
- 2-bed dwellings allocated 2 spaces
- 3-bed dwellings allocated 2/3 spaces
- 4 and 5-bed dwellings allocated 3 spaces

133 It has also been indicated there will be 17 visitor spaces available, as well as cycle parking and EV charging points. Whilst only an outline, with details to be confirmed at a reserved matters stage, it is considered that the proposed development will likely provide sufficient off road parking for future occupants.

### *Impact on the Local and Strategic Highway Network and the Vehicular Access*

134 The site lies within the vicinity of the A21 which connects to the M25, forming part of the Strategic Road Network. National Highways requested further information be provided to fully assess the potential impact of the development on the wider Strategic Road Network, this included additional data regarding trip rates, generations and distribution. Having reviewed the information provided by the applicant to address their comments, National Highways have raised no objections, stating they are content that the proposals, if permitted, would not have an unacceptable impact on the safety, reliability, and/or operational efficiency of the Strategic Road Network in the vicinity of the site.

135 Ashgrove Road runs south easterly, connecting to Oak Lane and Brittain's Lane at a junction to the north of the site, and connecting to Hopgarden Lane, Burntwood Road and Weald Road to the south east of the site. The KCC Highways Officer assessed the proposal in relation to the impact on the local highways network. Traffic surveys undertaken by the applicant demonstrate that vehicle speeds along Ashgrove Road are approximately 28mph, which is not considered excessive. Traffic flows are considered reasonable for the type of road although there is little current pedestrian or cycle movements. Whilst the development of 50 dwellings is likely to increase the traffic movements at local highway junctions, it is not considered that this will be sufficient to result in “severe” congestion issues as stated in Paragraph 111 of the NPPF, and so is not a reason for objection.

136 The possibility of introducing a 20mph speed limit along Ashgrove Road along the site frontage has been investigated but is not considered by the Highway Authority to be appropriate as it would be remote from other similar speed limits and current traffic speeds are not sufficiently high to make it strictly enforceable. It is not considered that such a speed limit would improve safety sufficiently for pedestrians and cyclists given the road width and lack of

footways and lighting. Any 20mph limit proposals would need to extend over a much wider area of Sevenoaks, with a series of traffic calming measures where appropriate.

- 137 Estimates of the traffic generation from the proposed development have been obtained from TRICS data which are considered to be acceptable. Whilst the Highways Officer commented that the figures appears to be on the low side, considering the unsustainable location and a heavy reliance on the private car for the majority of trip types, even a higher generation would not be considered to create congestion issues in the local highway network that could be considered “severe” in respect of Paragraph 111 of the NPPF.
- 138 The vehicular access onto the site, via a priority junction, is proposed to be taken from Ashgrove Road, opposite Acorn Cottage. KCC Highways have reviewed the access details and advise that this is acceptable providing the development is limited to 50 dwellings. Visibility splays of 43m x 2.4m would be required to be implemented and maintained in both directions which the applicant has confirmed.
- 139 Many of the public representations raised concerns regarding the development and highways considerations. The impact of the development on local traffic, road infrastructure, concerns regarding the safety of the access, visibility, the narrow nature of Ashgrove Road and concerns of the lack of pavements and pedestrian safety were the most referenced issues in the public representations received, referenced some 744 times in total. Numerous concerns highlight the local congestion along Ashgrove Road and neighbouring roads, with many questioning the timing and results of the trip and traffic data obtained by the applicant. Many people raise concerns regarding highway safety, due to the lack of footpaths and narrow nature of Ashgrove Road and neighbouring lanes, and that adding a further 50 dwellings along the road will compound the existing issues.
- 140 KCC Highways have reviewed the impact of the development on Ashgrove Road and the area in terms of congestion and road safety. KCC Highways have confirmed the data used for the transport assessment is suitable and is unlikely to exasperate congestion in the area to a “severe” degree. Regarding the concerns with the access, again, this has been assessed by KCC Highways, the Local Highway Authority, with no concerns raised regarding visibility. Paragraph 111 of the NPPF states that development should only be refused or prevented on local transport grounds if the impacts are “severe”, the local highway authority have confirmed this is not the case and therefore the development is considered acceptable in this regard.

#### *Highways sustainability*

- 141 Both KCC Highways and the Urban Design Officer raise concerns regarding the accessibility of the site. The site is not considered to be sustainable in terms of connectivity, access and active travel. The site is disconnected with no footpaths linking it to Ashgrove Road. The development would be considered to create a reliance on private cars, with the lack of safe and accessibly cycle

and pedestrian means of transport to and from the site. When considering the wider context of the site, particularly the lack of footpaths and the narrow and rural character of Ashgrove Road, the proposal does not align with the Council's sustainability and climate aims, nor does it align with the sustainable transport aims of chapter 9 of the NPPF or the aims of the Neighbourhood Plan.

- 142 Ashgrove Road fronting the site is narrow and has no footway and intermittent street lighting. No formal agreement with the Highway Authority has been approved for the mitigating and improvement works proposed. It is considered that residents are unlikely to feel safe walking or cycling along this and other nearby roads, and if this were encouraged it could lead to highway safety issues and hazardous highway conditions. Whilst there are other roads between the site and the town centre which are wider, lit and with footpaths, access to them from the site raises safety concerns as the site lacks linkages to the existing footpath network.
- 143 Whilst some improvements have been proposed to walking and cycling routes in the vicinity, details of these have not yet been agreed with the Highway Authority and are not considered extensive enough to solve or fully address the highway safety concerns or to provide safe routes that residents are likely to use rather than using a private car. Access to current bus travel is limited from the site. The nearest daytime bus service from Julians Way is not available during commuter / school travel times and still involves walking along narrow and unlit roads to access the bus stop. Other services are available from Weald Road but this also involves walking along narrow and unlit roads, with an alternative through woodland (not a public footpath) which is unsuitable after dark or in wet weather.
- 144 Discussions between the applicant and the bus provider are ongoing but not yet concluded or formally agreed to provide additional services to link the proposed development to the existing bus network.
- 145 It is acknowledged that the site may physically be within walking proximity to schools and local amenities, however, this involves walking along unsuitable roads with no footpaths which raises highway safety concerns, as discussed above. It is noted two pedestrian footways are proposed from the site to Ashgrove road, however these appear to be stepped in design so are not accessible or inclusive to all highway users. The footpaths would lead onto Ashgrove Road but do not link to an existing footpath network, therefore do not overcome the issues of pedestrian safety, connectivity and access. Whilst it is acknowledged that the applicant is proposing new community transport links to the site in the form of pavement improvements and a new bus service, these improvements have not been finalised or secured via a S106.

### *Summary*

- 146 In conclusion, the Highways Authority have raised major concerns regarding the unsustainable location of the development. Whilst there are a number of improvements proposed, none of these are finalised and not yet approved by either the Highway Authority or the bus provider, or secured in a signed S106. It

therefore remains that the development does not comply with the requirements of Section 9 of the NPPF and high reliance will be placed on the use of the private car for all essential travel. Any walking or cycling routes available from the development have considerable highway safety issues and are not considered to be safe, accessible or inclusive of all highway users. KCC Highways recommend refusal of this application on the grounds of non-compliance with the requirements of the NPPF Section 9. The Council consider the site to be unsustainable in terms of accessibility, connectivity and promoting active and sustainable forms of transport, contrary to policies EN1 and T1 of the Allocations and Development Management Plan, policies M1 and M9 of the Sevenoaks Neighbourhood Plan and the aims of Section 9 of the NPPF, in particular paragraphs 104(c), 104(e), 105, 110(b) and 112(a)-(c).

## **Heritage and Archaeology**

147 Paragraph 199 of the NPPF outlines that local authorities should conserve heritage assets in a manner appropriate to their significance. Any harm, which is less than substantial, must be weighed against the public benefit of the proposal (paragraph 200-202). Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on a local planning authority, in considering development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting, or any features of architectural or historic interest it possesses. Policy EN4 of the ADMP relates to proposals that affect a heritage asset or its setting, it supports proposals where the character, appearance and setting of the asset is conserved or enhanced.

148 It is noted that there are three locally listed buildings surrounding the site within a proximity of 100m from a site boundary:

- A building to the south east of the site known as Old Cross Keys (approximately 35m from the south eastern site boundary)
- A building, comprising three dwellings, to the north east of the site known as East Crosskeys House, Crosskeys House and West Crosskeys House (some 80m from the northern site boundary)
- A building to the north west of the site known as Top Hill (some 95m from the north western site boundary)

149 Fig Street House is also locally listed and is sited some 180m from the southern site boundary. It is also acknowledged that there is a Grade II Listed Building, 1 and 2 Cross Keys Cottages, located some 130m from the northern site boundary. The site does not lie within or adjacent to a conservation area.

150 The applicant has provided a Heritage Statement prepared by Asset Heritage Consulting. This statement identified the potential of the development to impact upon adjacent heritage assets, but that nearby designated and non-designated assets are some distance from application site. Considering the relationships of the assets identified to the application site, the impact in heritage terms would be considered to be negligible and would not equate to



less than substantial or substantial harm. The Heritage Statement concludes that there would be no harm identified to the significance of Old Cross Keys as the site makes very little contribution to the significance of its setting.

151 The Heritage Statement also assesses the potential impact of the development on the historic banking of Ashgrove Road, which will result in some alteration to the banks that could be considered to have degree of heritage interest. Ashgrove Road is a historic trackway, however, there has been some alteration to the western bank in the 20<sup>th</sup> century and the banks are not identified on any local lists as non-designated heritage assets. That said, the historic sunken lane of Ashgrove Road is identified by KCC Archaeology as a non-designated heritage asset as an important and characteristic archaeological and landscape feature. Whilst it may not be identified on any local lists or the Historic Environment Record for Kent, it is highlighted as being of historic and landscape value so could be considered a non-designated heritage asset. In the Heritage Statement provided, it is acknowledged there will be some impact on the historic character of this part of Ashgrove Road, however, this character will still remain legible along other parts of the road, with the impact being highly localised on heritage grounds. In terms of the impact of the new access on the heritage significance of the sunken lane, the proposal will unlikely cause harm to the heritage significance of Ashgrove Road, with the historic character maintained along the rest of the road. Overall, the outline proposals would not result in harm to the designated and non-designated heritage assets identified.

152 In terms of archaeology, the site lies in an area of general potential associated with prehistoric and later activity. The site is adjacent to a route way identifiable on the 1st Ed OS map and remains associated with the use of this route way may survive on site. In view of the archaeological potential, it is recommended that archaeological field evaluation and investigation works be secured via planning condition.

153 The archaeological potential of the site is noted and can be addressed by condition. The proposed access, whilst considered harmful in terms of landscape impact to the AONB, would not be considered harmful to the heritage significance of the sunken lane. The Council agrees with the assumptions made in the Heritage Statement provided by the applicant and does not dispute that, due to the siting and proximity of the designated and non-designated heritage assets to the site, and the proposed retention of much of the boundary vegetation, the impact of the proposal on heritage grounds would be minimal, and certainly less than substantial in accordance with paragraph 199 and 203 of the NPPF and local policy EN4.

## **Drainage and Flood Risk**

154 Policy LO1 of the Core Strategy seeks to direct development away from areas at risk of flooding. Paragraph 159 of the NPPF states that *“Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future).”*

*Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere”.*

155 Furthermore, paragraph 169 outlines that *“Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:*

- a) take account of advice from the lead local flood authority;*
- b) have appropriate proposed minimum operational standards;*
- c) have maintenance arrangements in place to ensure an acceptable standard*
- of operation for the lifetime of the development; and*
- d) where possible, provide multifunctional benefits”.*

156 The site does not lie within Flood Zone 2 or 3, nor does it lie within an area at low, medium or high surface water flood risk. The applicant has provided a Flood Risk Assessment prepared by Odyssey. This report confirms the site is at very low risk of flooding from surface water.

157 The Flood Risk Assessment details that surface water generated from the roofs of dwellings and garages on the western side of the site will be attenuated and infiltrated into ground using individual soakaways for each dwelling. The remainder of the impermeable area on the western side and all the impermeable areas on eastern side will be attenuated in two basins and a tank. Flows would be discharged to Thames Water public surface water sewer to the south west of the site. The drainage information provided states that the water storage basins have been designed to accommodate a 1 in 100 year storm + 40% to account for climate change. Foul flows would be conveyed by gravity to an existing Thames Water foul sewer at Hopgarden Lane, subject to approval by Thames Water. The Flood Risk Assessment provided demonstrates that the site could be drained in a sustainable manner.

158 The site lies outside of any flood zone so the Environment Agency have not provided any comments or concerns on the application.

159 In the Rebuttal Statement provided by the applicant, there is confirmation of the discharge rate but it is advised that further details can be confirmed through the more detailed design phase. It is also emphasised that Thames Water have confirmed there is sufficient capacity with surface and foul networks.

160 Thames water have raised no objections to the scheme, advising that they expect the developer to demonstrate what measures will be undertaken to minimise groundwater discharges into the public sewer. With regard to surface water drainage, Thames Water advise that the developer follows the sequential approach to the disposal of surface water. Management of surface water from new developments should follow guidance under sections 167 and 168 in the NPPF. With regards to the waste water network and sewage treatment infrastructure capacity, Thames Water do not raise an objection, based on the information provided.

161 Kent County Council as the Lead Local Flood Authority have also commented on the application, raising no objections to the principle of the surface water drainage proposals. They acknowledge that the west of the site is suitable for infiltration and will therefore utilise soakaways to drain surface water in this area. The east of the site is unsuitable for infiltration and therefore attenuation will be provided to accommodate a 100 (+ CC) year event, in the shape of a cellular storage tank and two basins. Surface water will be discharged from the site via the southern basin to a surface water sewer. Whilst they have no objection in principle to these proposals, they advise that the discharge rate to the surface water sewer be reviewed and that further soakaway testing be carried out to better understand the underlying ground conditions across the site. KCC expect that the discharge rate leaving the site is likely to change upon the results of these ground investigations and therefore the rate proposed is not finalised at this stage. They advise that at a more detailed design stage more information should be provided on the soakaways, the swales and how these connect in to the wider drainage network and pollution mitigation measures.

162 A number of the public representations raise concerns over the development and the impact on flood risk, with flood risk mentioned some 31 times and photos sent in to the Council showing instances of surface water on the roads surrounding the site. Whilst the representations have been thoroughly read and carefully considered, based on the information submitted by the applicant and the consultee responses from Thames Water and the Lead Local Flood Authority, I am satisfied that any outstanding issues with the site drainage plan can be controlled and finalised at the more detailed design stage. It is therefore considered that, subject to conditions, the development would be acceptable in terms of flood risk and drainage.

### **Biodiversity and Ecology**

163 Policy SP11 of the Core Strategy outlines the need for new development to maximise opportunities to build in features which are of benefit to biodiversity as part of good design. Policy L1 and L4 of the Sevenoaks Neighbourhood Plan emphasise the need for development to deliver a 10% biodiversity net gain through the metric template and the need to protect trees and hedgerows wherever possible. Moreover, the NPPF seeks a net gain in biodiversity and emphasises that planning decisions should contribute to and enhance the natural environment (paragraph 174). A Biodiversity Net Gain (BNG) assessment has been submitted with this application and has been reviewed as part of the application submission.

164 The applicant has submitted a Preliminary Ecological Appraisal of the site, protected species surveys, an Arboricultural report, BNG information regarding off-site provision and correspondence relating to a Great Crested Newt (GCN) License certificate. The conclusion from the Preliminary Ecological Appraisal for the site is that the land is of low to moderate ecological value and that the key constraints include priority habitat and the potential for protected species

on the site, in particular GCN, badgers, bats, hazel dormouse and reptiles. The additional survey work identified that further considerations should be made regarding GCN and badgers. KCC Ecology have advised that there are still outstanding points to be addressed regarding the acceptability of the proposal and that insufficient information has been provided to allow a full determination on ecology grounds.

#### *Great Crested Newts (GCN)*

165 The updated species survey report states that due to the lack of survey data obtained for the ponds within 250m of the site boundary during the 2022 season, it is recommended the development joins the District Level Licensing scheme for Kent. KCC Ecology advise that the GCN licensing form has not been counter signed by Natural England therefore it cannot be determined that they have been accepted onto the scheme.

#### *Badgers*

166 The development would encroach within 30m of the main badger sett (sett 2), with no information provided on how to mitigate this or address this concern. The updated protected species survey document prepared by Urban Edge states that the proposals include encroachment into the buffer zone of sett 2, with the vehicular access appearing to be some 15m from the location of the sett at the nearest point. It highlights that works could result in possible harm and killing of badgers. Whilst the layout is indicative at this stage and yet to be finalised at a reserved matters stage, there is not considered to be sufficient information to address the potential harm to badgers on the site, in particular sett 2.

#### *Priority Habitat*

167 In the preliminary ecological appraisal report, priority habitats were identified on the site in the hedgerows, with hedgerows 1, 2, 3 and 5 highlighted as quality habitat of 'principle importance' and hedgerows 3 and 5 assessed as 'important'. It was noted that whilst most the hedgerows will be retained, some of hedgerow 3 will be lost to create the new access. Other habitat loss will include the loss of the grassland, 3 trees to be removed, 3 tree groups to be partially removed and 1 tree group to be completely removed. One of the recommendations from the Preliminary Ecological Appraisal was the use of protection measures for the important ecological features to mitigate harmful ecological impacts and loss.

168 A further point outstanding and raised as a concern by KCC Ecology is that the applicants have not demonstrated the proper safeguarding of the priority habitat identified on the site. The Ecological Assessment provided by the applicant highlighted the majority of the boundary hedgerow as 'priority habitat' of which the Council has an obligation to safeguard. There is considered to a lack of information regarding the safeguarding of the identified priority habitat.

### *Biodiversity Net Gain (BNG)*

169 Regarding BNG, KCC Ecology advise that the applicant has not demonstrated, via the metric, that a net-gain can be achieved. Parts of the BNG metric assessment are not completed, failing to give a clear assessment of whether a 10% gain can be achieved through the scheme.

170 The applicant has provided a letter from Kent Wildlife Trust detailing the delivery and management of an off-site provision of BNG in excess of 10% that can be secured to off-set any ecological loss on the development site. However, this receptor site has not been secured through a S106 agreement and the BNG metric is not considered to reflect that a gain can be secured. As such, there is considered to be insufficient information to satisfy KCC Ecology that a 10% net gain can in fact be achieved.

### *Ancient Woodland*

171 The site lies some distance from pockets of nearby ancient woodland, in excess of 120m. Whilst the public representations relating to the ancient woodland are noted, the development would lie outside of the accepted 15m buffer required for development adjacent to ancient woodland. The proposal would not be considered to harm the nearby ancient woodland.

### *Summary*

172 Insufficient information has been provided to fully understand and determine the impact of the development on GCN, badgers and priority habitat, and that whilst the applicant claims a minimum of a 10% BNG off-site, this has not been secured or confirmed through the metric or a completed S106. Considering the above, the proposal is therefore unacceptable since it has not been sufficiently demonstrated the development will preserve the ecology of the site and area, contrary to policy SP11 of the Core Strategy, policies L1 and L4 of the Sevenoaks Neighbourhood Plan and paragraph 174 of the NPPF.

### **Affordable Housing**

173 The applicant is proposing a 50% provision of affordable homes, 25 homes in total. This is 10% more than the policy requirement under Core Strategy policy SP3, meaning an addition of 5 affordable homes are proposed. The applicant has provided clarity on the proposed affordable housing mix and tenure, see below:

- 15 socially rented dwellings
- 2 affordable rented dwellings
- 6 first homes
- 2 shared ownership dwellings

174 The Housing Officer welcomes the additional provision of affordable housing but advises the preference of the Council would be as follows:

- 15 socially rented dwellings
- 3 affordable rented dwellings
- 5 first homes
- 2 shared ownership dwellings

175 The applicant confirms that the M4(2) requirements outlined by the Housing Officer can be accommodated in the affordable units. In terms of wheelchair accessible housing - M4(3)(b) - the applicant is offering 3 one bedroom ground floor flats. However, the Housing Officer advises that on a development of this size, the council would seek 5% of homes to be M4(3)(b) standard, which equates to 2.5 homes, and provided as social/affordable rent. It is suggested that an appropriate level of provision is 2 family sized houses, i.e. houses with 2 or 3 bedrooms, provided as social rent.

176 The level of affordable housing will be discussed within the case of very special circumstances. Notwithstanding this, the affordable housing has not been secured through a signed S106 agreement, therefore it cannot be guaranteed that the development will provide affordable housing.

### **Public Right of Way**

177 Byway SU36 abuts the south-easterly corner of the site, with other public footpaths within the vicinity of the site to the south east along Ashgrove Road. KCC Public Rights of Way have reviewed the scheme and comment that the extra footfall the development of 50 new homes would bring to this Byway and the surrounding network of Public Rights of way could have a major impact on level of maintenance required. Therefore, they request a financial contribution, to be secured via a S106, for £20,000 to help with the future maintenance of the network of surrounding PROWs. In the absence of a signed S106 this financial contribution has not been secured.

### **CIL and S106 Contributions**

178 Whilst the development will be CIL liable, it is only CIL liable at the reserved matters stage.

179 It is noted that Kent County Council have requested financial contributions towards services including education, community learning, youth service, library book stock and social care.

180 It should be noted that the CIL rate was set to cover infrastructure provision, such as education and community contributions. KCC is able to bid for funds in line with the Council's existing CIL spending procedures.

181 Notwithstanding this position, the importance of securing funding for education is recognised. It is also noted that Government Guidance - ‘Securing developer contributions for education’ (November 2019) confirms that the Department for Education expects local authorities to seek developer contributions towards school places that are created to meet the need from housing development, and that this may be secured either by means of condition or a planning obligation or the Community Infrastructure Levy. It also states that the use of planning obligations where there is a demonstrable link between the development and its education requirements can provide certainty over the amount and timing of the funding needed to deliver sufficient school places.

182 It is recognised that in some projects the CIL contributions arising from the development would fall short of the full amount required for the education requirement generated by the development. It is also recognised that the CIL funding allocation process may create some uncertainty as to whether the full need generated by the development would be covered through CIL funding, given the competition for funding. On this basis, and while CIL funding for education remains a commitment, the Council acknowledges that education contributions requested by KCC can be secured through a Section 106 agreement, where KCC are obliged to bid from CIL, and if unsuccessful keep the education in full or in part.

183 In relation to this application, the Council would seek to secure the education contributions requested by KCC through a S106 agreement, equating to some £588,642.36, with the other contributions acknowledged to be able to be covered by CIL. However, a Section 106 agreement has not been secured to ensure the provision of education contributions.

### **Assessment of Case for Very Special Circumstances and the Planning balance**

184 There is no dispute that the proposal would be inappropriate development in the Green Belt. Given the scale of built development proposed, the scheme would have a substantial adverse impact on the openness of the Green Belt, which provides a very clear reason for refusing the development unless the applicant can show very special circumstances that clearly outweigh all the harms identified.

185 Local Planning Authorities “*should ensure that substantial weight is given to any harm to the Green Belt*” and it is for the decision maker to decide whether “*the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations*” (NPPF paragraph 148). There are no defined tests or criteria for assessing what a case of very special circumstances amounts to and how much weight should be afforded the benefits and harms.

186 The Council does not have an up to date Local Plan for housing provision in terms of the requirements of the NPPF. The Council is also unable to demonstrate a five year housing supply, and is classed as a presumption

authority under the Housing Delivery Test. Therefore, under paragraph 11 of the NPPF, there is the potential for the titled balance to be engaged. However, under footnote 7 of paragraph 11, the site lies within the Green Belt and the AONB, and the development will result in substantial harm as detailed above. Consequently, the titled balance is not engaged.

#### *Weight to be given to harm to the Green Belt*

187 The proposal would result in substantial urban development in the Green Belt and a permanent loss of openness. The site forms part of an area of Green Belt that strongly fulfils two Green Belt purposes - restricting the sprawl of built-up areas and safeguarding the countryside from encroachment. The proposal will substantially and permanently harm the openness of the Green Belt and this very substantial harm is assigned substantial weight in the planning balance.

#### *Weight to be given to other harms*

188 Regarding the harm identified to the character and appearance of the area, the unsustainability of the site in terms of access and connectivity and the harm to the spatial landscape character and intrinsic beauty of the AONB, the Council considered this harm to be significant and is therefore afforded significant weight in the planning balance.

#### *The case of Very Special Circumstances*

189 The case for very special circumstances put forwards by the applicant can be summarised by reference to the following points:

- Housing supply, out of date local plan and lack of 5 year housing land supply
- Affordable Housing
- Ecological enhancements and biodiversity net gain
- Highways, transport and access improvements
- Open space provision

#### Housing supply, lack of 5-year housing supply and out of date local plan:

190 It is fully acknowledged that the Council does not have an up to date Local Plan and cannot demonstrate a five year housing land supply, as the latest figures show that it has a supply of 2.89 years. The Council recognises it has a shortfall in terms of delivery of housing to meet the standard method housing target it has been set. In the absence of an up to date Local Plan, the Council has a sizeable shortfall and will struggle to meet the need for more housing without a new development strategy in place. Therefore, significant weight is attributed to the housing need and the benefit that market housing would bring.

191 The Council has undergone a regulation 18 consultation on the New Emerging Local Plan (2040), with the regulation 19 consultation proposed for



the Autumn. The Council considers that the local plan process should be used to determine housing need rather than through individual planning applications. Moreover, the scheme is in outline and it will not count towards the Council's five-year housing land supply unless there is clear evidence that housing completions will begin on site within five years. Even assuming that clear evidence is in place, it is not considered that housing need on its own outweighs the very substantial harm to the Green Belt and the AONB.

- 192 The matter of weight attributed to a shortfall in housing supply and whether it outweighs the harm to the Green Belt has been considered in a number of recent appeal decisions. The appeal decision at Broke Hill Golf Course, Sevenoaks (Ref: APP/G2245/W/21/3273188) was that the shortage of housing, whether market or affordable, did not amount to reasons for allowing inappropriate development in the Green Belt.

#### Affordable housing:

- 193 Like the general housing supply, there is a shortfall of affordable housing in the District. The provision of 25 affordable units would be much welcomed, albeit they are in the wrong location in terms of Green Belt policy. It is noted the additional 10% over and above the 40% requirement of policy SP3 of the Sevenoaks Core Strategy, which equates to an additional 5 units. This, whilst welcomed, is only a limited contribution over and beyond what is required by policy. The Council does not consider that provision of five extra affordable homes sufficient to overcome the very substantial harm to the Green Belt and the AONB. That said, in light of the shortfall in affordable housing in the District, the Council consider this should be afforded significant weight.

#### Ecological enhancements and biodiversity net gain:

- 194 The applicant states that they can achieve a 10% BNG through an off-site provision and that with the other biodiversity enhancements proposed they can exceed policy requirements. KCC Ecology have reviewed the BNG metric and raised concerns that this does not suitably demonstrate a net gain. The use of an external receptor site for BNG has not been secured by a completed S106. KCC Ecology also raise concerns regarding the great crested newt license, impacts on badgers and lack of protection for priority habitats identified on the site.

- 195 Even if the applicant could demonstrate a 10% BNG, the requirement under the Environment Act 2021 is for 10% and policy L1 of the Sevenoaks Neighbourhood Plan requires a 10% BNG. The expected net gain has not been confirmed or secured through a s106 and is not considered a very special circumstance as it is now a policy requirement through the Sevenoaks Neighbourhood Plan, so is afforded very limited weight, particularly given that this is now a policy requirement.

#### Highways, transport and access improvements:

196 The applicant puts forwards several proposals and enhancements to highways, transport and access of the site and surrounding area, these are summarised below:

- Cycle parking for each unit
- Two new pedestrian footpaths leading from Ashgrove Road into the site
- Improvements to local bus services to serve the development and contribute towards an EV bus
- Proposed 20mph speed limit zone on Ashgrove Road
- Potential traffic calming measure on Ashgrove Road
- Potential street lighting on Ashgrove Road
- Potential pavement improvements at Brittain's Lane, Hopgarden Lane and Little Julians Hill
- Improvement to bus stop at Ashgrove Road and Weald Road

197 The applicant asserts the site is an edge of settlement location and is sustainable in its locality, with the improvements proposed to enhance this further. Whilst these enhancements would be improvements to the local area in terms of access and highways, they would conflict with the established rural character of Ashgrove Road and Oak Lane. The character area and landscape assessments highlight that Ashgrove Road is rural in character and that this is a positive feature that should be retained and protected from any harmful urbanising effects. Many of these highways improvements would seriously conflict with the established rural character of Ashgrove Road and would present visual harm to the character and appearance of the area in terms of a harmful urbanising effect.

198 The two pedestrian access points proposed appear stepped in design so raise questions of inclusivity and accessibility for all users. There are also concerns that the development would encourage people to walk along parts of Ashgrove Road that are narrow and unlit, posing highways safety concerns. The provision of secure and covered cycle storage and cycle parking is a requirement of developments of this size so is not seen as an additional benefit. Overall, as the enhancements and mitigation works proposed have not been accepted, agreed or finalised with the Highways Authority or secured via a S106 agreement, and would lead to harmful visual impacts to the established rural character of Ashgrove Road, these enhancements are afforded very limited weight.

#### Open space provision:

199 It is acknowledged that there would be a provision of informal green and open space as part of the proposal that would be available to residents and the wider community, with two footpath accesses onto the site. The two pedestrian accesses appear to be stepped in design so are not considered to be accessible and inclusive to all users. That said, the provision of open space could be seen as a benefit, although the Council does uphold high design standards for developments of this size. Accordingly the weight afforded to the provision of open space is limited.

### *Summary of planning balance*

- 200 The applicant's case of very special circumstances have been assessed above. The principal factor relied on by the applicant is the provision of market and affordable housing against a backdrop of an insufficient five-year housing land supply. The provision of housing carries significant weight, but it is considered that this is not sufficient (even when combined with all the other benefits) to outweigh the very substantial harm to the Green Belt in terms of inappropriate development and impact upon openness, in addition to the other harms identified above, including to the character and appearance of the area and wider AONB landscape and harm through the unsustainable location of the site in terms of access, transport and connectivity.
- 201 The other benefits of the proposal are considered of lesser weight, though it is accepted collectively they should be considered. Nevertheless, the scale of the harm to the Green Belt and other harm is not outweighed by the benefits of the proposal and in accordance with paragraph 148 of the NPPF the very special circumstances needed to justify the grant of permission do not exist.

### **Conclusion**

- 202 The proposal is inappropriate development in the Green Belt and is by definition harmful. It would result in very substantial harm to the openness of the Green Belt and undermine the purposes served by the Green Belt in this location, principally to check the unrestricted sprawl of built up areas and to safeguard the countryside from encroachment.
- 203 The development will also harm the rural character of the area and would erode the spatial landscape character of the AONB, resulting in an urbanised development and extending the built confines of Sevenoaks further into the open countryside. The proposal would fail to conserve and enhance the distinctive character of the AONB, contrary to policies SP1 and LO8 of the Core Strategy, EN1 and EN5 of the Allocations and Development Management Plan and policy C9 of the Sevenoaks Neighbourhood Plan. It is also in conflict with the NPPF, in particular paragraphs 176 and 177, which places the AONB into a special category of protection, requires great weight to be given to their conservation and enhancement, for development to be limited in scale and extent and for major development to only be permitted in exceptional circumstances and in the public interest, which it fails to demonstrate.
- 204 The Highways Authority objects to the scheme as the site is considered to be fundamentally unsustainable in terms of accessibility, connectivity and the availability of alternative modes of transport. Ashgrove Road is not served by footpaths connecting to the wider footpath network into Sevenoaks and is considered to be disconnected from Sevenoaks Town and not easily accessible for all highway users. As such, the development will create a reliance on private vehicles and fails to promote active and alternative modes of transport, contrary to policies EN1 and T1 of the Allocations and Development

Management Plan, policies M1 and M9 of the Sevenoaks Neighbourhood Plan and the aims of Section 9 of the NPPF.

- 205 The Council is not satisfied with the ecological information provided to determine that there will be no harm to ecology assets across the application site, including GCN, badgers and the identified priority habitats. As such, the proposal is contrary to policy SP11 of the Sevenoaks Core Strategy and the National Planning Policy Framework.
- 206 The applicant has failed to provide a completed section 106 agreement, for the provision of on-site affordable housing, education contributions and a public rights of way contribution.
- 207 The principal benefit of the scheme is the provision of new market and affordable housing in the District. Having taken into account this benefit, together with the other social, economic and environmental benefits relied on, I conclude that the case for very special circumstances in accordance with paragraph 148 of the NPPF do not clearly outweigh the very substantial harm to the Green Belt and the other significant harm identified. The scheme is contrary to policies LO1 and LO8 of the Core Strategy and Green Belt policies in the NPPF.
- 208 Overall, the proposed development is contrary to the development plan taken as a whole and there are no material considerations that would justify a departure from the development plan. It is recommended that planning permission be refused on this basis.

### **Recommendation**

- 209 It is therefore recommended that this application is refused.

Case officer: Anna Horn

Date: 29/03/2023

Manager/Principal: Aaron Hill

Date: 30/3/23