

Application Number	18/01273/AS
Location	Land rear of 17 Townland Close, Biddenden
Grid Reference	85369/12625
Parish Council	Biddenden
Ward	Biddenden
Application Description	Erection of 12 dwellings with associated access and parking
Applicant	Leath Park Developments Ltd
Agent	Rachael Dickson, The JTS Partnership, 44 St Peter's Street, Canterbury CT21 2BG
Site Area	1.17 ha

(a) 80/39R	(b) R	(c) HE - KCC H&T X KCC (Econ) X KCC Bio X KCC F&WM X EP X StreetScene X
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Introduction

1. This application is reported to the Planning Committee because it is a major planning application.

Site and Surroundings

2. This 1.17 ha site is situated immediately to the east of the village of Biddenden in the Biddenden and High Halden Farmlands Landscape Character Area which forms part of the Low Weald. Bordering the site to the west is Townland Close, a 'looped' cul-de-sac development of detached 20th Century housing with access

off North Street, a main road through the village. Another cul-de-sac, known as The Weavers, and also accessed from North Road, lies to the south west of the site. This estate is characterised by 1950s terraced and semi-detached housing, a number with gardens that back onto the application site. Beyond these cul-de-sacs to the west is the extensive Biddenden Conservation Area, with its large number of listed buildings. It includes North Street and the properties on the east side of North Street adjoining Townlands Close and The Weavers. To the north, east and south of the site is open countryside, characterised by fields with ditches/ hedges and trees to field boundaries, and a more substantial tree belt to the northeast of the site. A public right of way (PROW) extends across the fields to the south of the site. A recently built property, known as Gate House, occupies a large plot immediately to the west of the site and adjacent to 16 Townlands Close. It has a large garden to the rear which forms part of the application site. Gate House itself is in the same ownership as the application site.

3. The site is largely made up of a rectangular shaped field which slopes down gently towards the ditch on the SE boundary. It incorporates some additional undeveloped land to the front of Gate House, as well as part of its rear garden. Access into the site is from the turning head at the end of Townland Close. The boundaries to the site largely coincide with the field boundaries and are made up of hedgerow, trees and ditches. There are protected trees to both the NE and SW field boundaries. There are two ponds just outside the northern and southern corners of the site.

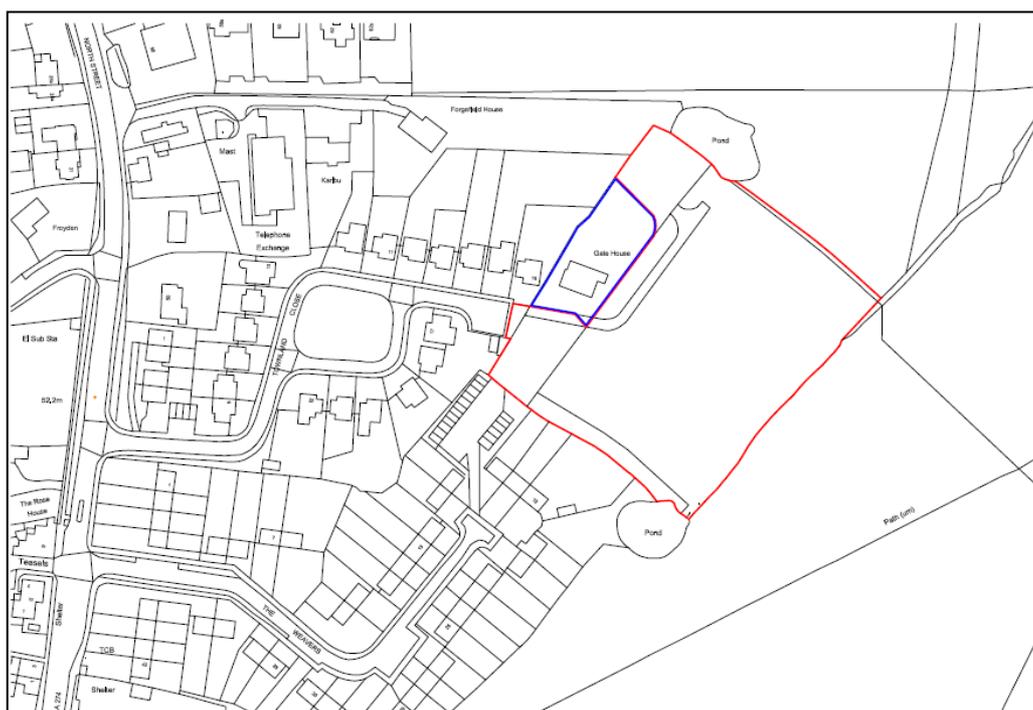


Figure1: Site Location Plan

Proposal

4. This full planning application is for residential development of 12 units.
5. The layout would extend the existing Townland Close cul-de-sac into the site with properties arranged around the shared surface routes and backing onto the site boundaries. The units are mostly large 4 and 5-bed detached properties, each with a detached double garage. There are 4 smaller 3-bed semi-detached units at the entrance into the site with tandem parking along each side elevation. These smaller properties make up the affordable housing component with the larger properties for market sale. The southern corner of the site is set aside as a 'habitat area' and the SE boundary of the site has a 'natural growth buffer' for much of its length with the back of the properties in The Weavers.
6. The units have a traditional two-storey form and design. The detached units are made up of two basic house-types; one 4-bed and the other 5-bed. All of these units have functioning chimneys. One house type incorporates a cat slide roof; all have brick plinth to front and side elevations. The semi-detached units have integrated bin storage in the front elevation.
7. The facing materials include a combination of brick and timber cladding or render with Kent peg tiles to roofs.



Figure 2: Site layout plan

Figure 3a: House type 1 (4 bed) floor plans

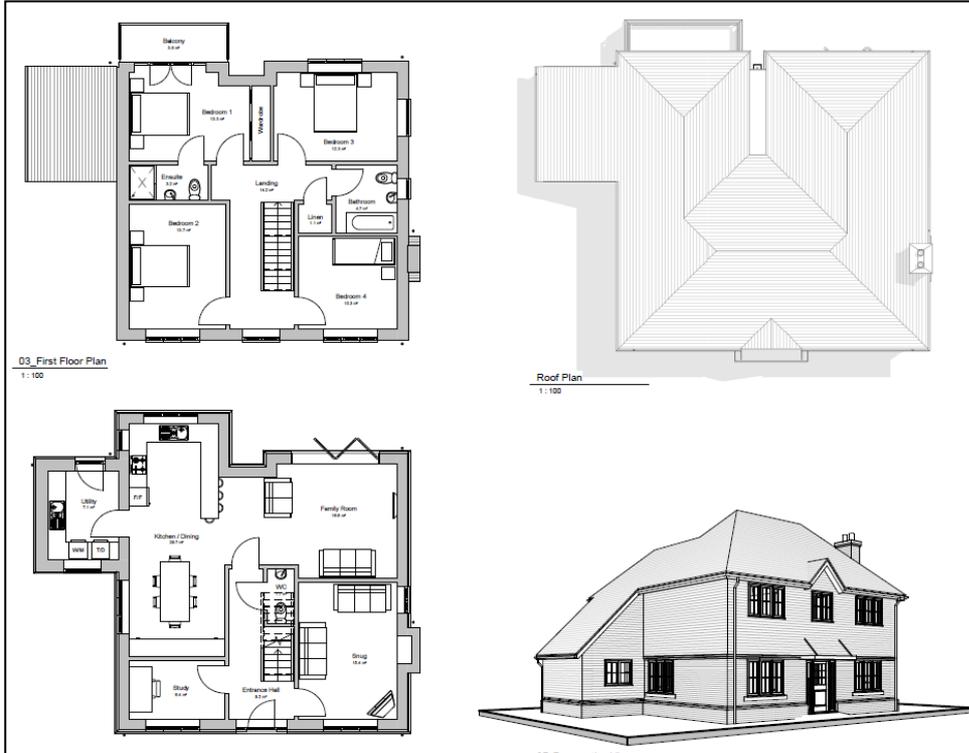


Figure 3b: House type 1 elevations





Figure 4a: House type 3 (3 bed affordable) floor plans



Figure 4b: House type 3 elevations

The following documents have been submitted in support of the application:

Phase 1 Contaminated Land Assessment

This study has identified potential sources of contamination as follows: made ground from previous phases of construction and demolition and infilled land / ponds off-site. It advises further investigation to establish whether any remediation or mitigation is necessary.

Phase 2 Geo-environmental assessment

This report concludes that the site is made up of Weald Clay Formation and is not within a groundwater source protection zone. It identifies the nearest surface water feature as a pond located at the sites north corner within the site boundary and two tertiary rivers located along the sites north and east boundaries. Ground investigation identifies some evidence of contamination in the form of rear brick fragments. It concludes that no remedial measures are considered necessary.

Arboricultural Impact Assessment

This report concludes that the development would allow the most important trees, which are to field boundaries, to be retained. It identifies the most important trees as follows:

- T9, the mature oak tree in the north east corner of the site, which forms a prominent landscape feature
- The native tree lined hedgerow along the south east boundary which forms a strong natural boundary

Trees earmarked for removal include a 'U' class tree and a number of 'C' and 'B' grade tree groups. A hedgerow would also be removed.

Extended Phase 1 Habitat Survey

This report concludes that provided that the majority of hedgerows and tree lines are retained and enhanced it is reasonable to conclude that the local bat population would be unaffected by proposals and that commuting / foraging behaviours would continue unaffected. It identifies the dead tree on the northern boundary as having roosting potential and supports its retention from an ecological perspective identifying the need for further bat surveys should it be proposed for removal. The report advises a bat friendly lighting scheme and a full range of ecological enhancement. The report recommends further survey work to i) examine the presence / absence of reptiles and ii)

determine GCN population size noting how the results of this survey work could influence layout.

Ecological Assessment Report

Surveys confirm the use of boundary habitats by GCN and reptiles, with a GCN breeding pond located adjacent to the southern boundary pointing to the need for a license prior to commencement of the works.

Transport Statement

This report identifies good pedestrian / cycle access to the village centre and satisfactory bus provision. It is concluded that the proposed layout accords with prevailing standards and would provide a safe on-site road environment. The low numbers of vehicular trips associated with a development of this scale would not have a material impact on the operation of the local highway network

Flood Risk Assessment and Drainage Strategy

This report concludes that the site is in an area of low risk from flooding and that due to the underlying geology, filtration of surface water is unlikely to be viable. The surface water strategy is restricted discharge by gravity to the ditch to the south and the drainage network and attenuation has been sized to attenuate the flows from the site in the 110 year return period rainfall event inclusive of 40% climate change allowance. It points out that it may be feasible to utilise open attenuation subject to details design of levels and drainage of if the site layout is amended to permit. It assumes that the access road is not adopted and utilises permeable paving.

Additional information on drainage

This advises that an open attenuation basin has been ruled out due to the depth of the basin and the need for 1 in 4 slopes. If a permeable paving option is not utilised then an additional treatment device would be needed.

(In terms of securing access to the ditch for maintenance purposes, it is confirmed that the ditch will be maintained by a management company and regular maintenance will prevent the ditch from becoming silted up or ineffective. It also points out that this is a small length of ditch where access can be easily achieved for on-going maintenance by a management company, with the use of mini diggers)

Planning History

84/00939/AS Outline planning permission for 5 units. REFUSED

04/00176/AS Outline planning permission for the erection of a detached dwelling with a garage including the demolition of an existing building. APPROVED (Gate House)

05/00856/AS Outline application for a detached house and garage at land adjacent to Gate House DISMISSED ON APPEAL

Consultations

Ward Member – No comments have been received.

Biddenden Parish Council - objects to this application on the grounds that 45 houses are already being built on North Street. The application also allows for extension of the site and is encroaching on countryside.

Weald of Kent Protection Society (WKPS) objects as it is a greenfield site with the built-development extending well past the built confines of the village into open countryside. It would also detrimentally affect the residential amenity of the residents of Townland Close. The site is not included in the Ashford Local Plan 2019.

Environment Agency No comment as it falls outside their remit as a statutory consultee.

Historic England No comment.

Southern Water No objection subject to a condition requesting phasing of the development. This is required as there is an increased risk of flooding unless any required network reinforcement is provided by SW. SW and the developer will therefore need to work together in order to ensure that the delivery of the network reinforcement aligns with the proposed occupation of the development as it will need time to design and deliver any such reinforcement.

KCC Flood and Water Management acknowledges that an open attenuation feature is not viable at this site. They raise no objection subject to a condition securing a sustainable surface water drainage scheme.

KCC Biodiversity initially requested further information in respect of further surveys (reptiles and bats) and a reptile and GCN mitigation strategy. Following the submission of additional information, KCC is satisfied that the ecological mitigation strategy is acceptable. It raises no objections subject to a number of conditions to secure the implementation of the strategy, including who will have long term responsibility for management of the receptor site and how the management will be funded.

KCC Highways and Transportation initially raised some concerns but these have been removed following confirmation that the layout is to remain in private ownership. A number of conditions are recommended.

KCC Economic Development requests a contribution in respect of libraries. Although there is a primary and secondary school need arising from the development, due to the

CIL Reg 123 restriction, it is unable to pursue this at the current time. An informative is advised in respect of securing broadband.

Street Scene and Open Spaces has commented that the refuse swept path does not allow for collection of waste from plot 11 as a reverse manoeuvre to this plot is not acceptable. Ideally this development would be better suited with a circular roadway to allow all plots to be accessed in a forward gear.

Environmental Protection No objection subject to conditions.

Neighbours - 80 neighbours were consulted. 38 objections were received. 2 general comments were received which didn't raise any additional material considerations.

The letters of objection raise the following issues:

- The village already has allocated housing sites; doesn't need additional housing;
- The village lacks the resources to support another housing development;
- Damaging to rural landscape surrounding the village;
- Will not benefit residents of the village;
- Adverse impact on wildlife;
- Townland Close provides an unacceptable access – narrow with parked cars; children playing;
- Poor junction between Townland Close and North Street;
- The village is poorly served by buses – the bus from Biddenden to Maidstone is every 30 minutes but no buses run during rush hour (7:23 to 9:22);
- The development would result in more traffic;
- Overshadowing of 18 Townland Close;
- Loss of privacy to residents of Townlands Close;
- Harm to visual amenity from several public footpaths;
- Detrimental effect on quality of townscape
- Capacity of drains to accommodate the development
- Disruption during development to residents of Townland Close

Planning Policy

8. The Development Plan comprises the Ashford Local Plan 2030 (adopted February 2019), the Chilmington Green AAP (2013), the Wye Neighbourhood Plan (2016), the Pluckley Neighbourhood Plan (2017) and the Kent Minerals and Waste Local Plan (2016).
9. For clarification, the Local Plan 2030 supersedes the saved policies in the Ashford Local Plan (2000), Ashford Core Strategy (2008), Ashford Town Centre Action Area Plan (2010), the Tenterden & Rural Sites DPD (2010) and the Urban Sites and Infrastructure DPD (2012).
10. The relevant policies from the Development Plan relating to this application are as follows:-

Ashford Local Plan 2030

SP1 – Strategic objectives

SP2 – The strategic approach to housing delivery

SP6 - Promoting high design quality

HOU1 – Affordable housing

HOU3a – Residential windfall development within settlements

HOU5 – Residential windfall development in the countryside

HOU10 – Development in residential gardens

HOU12 – Residential space standards internal

HOU14 – Accessibility standards

HOU15 – Private external amenity space

HOU18 – Providing a range and mix of dwelling types and sizes

TRA3a – Parking standards for residential development

TRA5 – Planning for pedestrians

TRA6 – Provision for cycling

TRA7- The road network and development

TRA8 – Travel plans, assessments and statements

ENV1 – Biodiversity

ENV3a – Landscape character and design

ENV4 – Light pollution and promoting dark skies

ENV5 – Protecting important rural features

ENV9 – Sustainable drainage

ENV12 – Air quality

ENV15 – Archaeology

COM1 – Meeting the community's needs

COM2 – Recreation, Sport, Play and Open Spaces

COM3 – Allotments

COM4 – Cemetery provision

IMP1 – Infrastructure provision

IMP4 – Governance of public community space and facilities

11. The following are also material considerations to the determination of this application:-

Supplementary Planning Guidance/Documents

Affordable Housing SPD, 2009

Sustainable Drainage, October 2010

Residential Parking and Design Guidance, October 2010

Landscape Character, April 2011

Residential Space and Layout, October 2011

Public Green Spaces and Water Environment, July 2012

Dark Skies, July 2014

Informal Design Guidance

Informal Design Guidance Note 1 (2014): Residential layouts & wheeled bins

Informal Design Guidance Note 2 (2014): Screening containers at home

Informal Design Guidance Note 3 (2014): Moving wheeled-bins through covered parking facilities to the collection point

Government Advice

National Planning Policy Framework (NPPF) 2018

National Planning Policy Framework 2018

Planning Policy Guidance

Technical housing standards – nationally described space standard

12. Members should note that the determination must be made in accordance with the statutory Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF effectively provides that less weight should be given to the policies above if they are inconsistent with the NPPF (para. 213). The following sections of the NPPF are relevant to this application.

Relevant sections:

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 10 - Supporting High Quality Communications
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change

Assessment

13. The main issues for consideration are:
- Principle of development
 - Landscape Impact/ Visual amenity
 - Impact on residential amenity
 - Highway Safety
 - Flood Risk / Drainage (surface and foul)
 - Biodiversity
 - Contamination
 - Housing mix / affordable housing
 - Other matters
 - Whether planning obligations are necessary

The principle of the development

14. The Council can currently demonstrate a 5 year housing land supply and therefore the policies in the adopted Local Plan relating to the supply of housing are afforded full weight. Section 38 (6) of the Planning & Compulsory Purchase Act 2004 states that applications should be determined in accordance with the adopted Development Plan unless material considerations suggest otherwise. Section 70 of the Town and Country Planning Act 1990 is concerned with the determination of planning applications with regard to the provisions of the development plan, so far as they are material and any other material considerations.
15. The Local Plan has validated the essential land use planning strategy adopted by the Council, as being the right strategy to apply, namely focusing growth in and near the built-up area of Ashford, as well as in the main rural settlements in the hierarchy, based on sustainability considerations and seeking to recognise the character and important qualities of the villages and the countryside. The land use planning strategy is sound and justified. Biddenden is considered to be one of the higher tier settlements.

16. In the rural area, larger scale development – in a rural context – is focused at the more sustainable and established rural settlements, those which have more services and facilities and a greater ability to absorb higher levels of new housing (i.e. Biddenden).
17. The Plan also proposes to allocate a significant number of housing allocations at medium sized rural settlements which will spread the responsibility for accommodating new housing growth in a sustainable way across the borough and focus new housing in a way that is proportionate and close to the services and facilities in the locality. This site is not an allocation.
18. The relevant policies for residential windfall development are Policy HOU3a (within settlements) and Policy HOU5 (in the countryside). As the site falls outside the built up confines of Biddenden, then Policy HOU5 applies.
19. Policy HOU5 is permissive of residential development ‘adjoining’ or ‘close to’ the existing built-up confines of a number of settlements listed in the policy providing it meets a number of strict criteria. Biddenden, as a larger more sustainable settlement, is included as a HOU5 village and the proximity of this site to its built-up confines requires the proposal to be assessed against the criteria in the policy. Only proposals that meet the criteria will potentially be considered appropriate for development.
20. These criteria are set out and considered below:

a) The scale of development proposed is appropriate to the size of the settlement and the level, type and quality of day-to-day service provision currently available and commensurate with the ability of those services to absorb the level of development in combination with any planned allocations in the Local Plan and committed development in liaison with service providers

I am satisfied that this is the case. Biddenden is one of the more sustainable village settlements. It has a number of facilities, including a shop, pub and primary school.

b) The site is in easy walking distance of basic day-to-day services in the nearest settlement, and/or has access to sustainable methods of transport to access a range of services

I am satisfied that this is the case.

c) The development is able to be safely accessed from the local road network and the traffic generated can be accommodated on the local and wider network without adversely affecting the character of the surrounding area

KCC raise no objections to the proposal subject to conditions. I therefore consider that the proposed development satisfies this criterion. A development of 12 dwellings would not materially impact on the safe operating and functioning of the local highway network / junctions.

- d) *The development is located where it is possible to maximise the use of public transport, cycling and walking to access services*

The site is in easy walking distance of the village centre. North Street is a bus route and has footpaths to either side. KCC raise no objections to the proposal subject to conditions. I therefore consider that the proposed development satisfies this criterion.

- e) *The development must conserve and enhance the natural environment and preserve or enhance any heritage assets in the locality*

I am not satisfied that development here would conserve and enhance the natural environment. The development would not impact upon heritage assets - see relevant sections below.

- f) *The development (and any associated infrastructure) is of a high quality design and meets the following requirements: -*

- i) *It sits sympathetically within the wider landscape*

I do not consider this to be the case - see section below on Landscape Impact.

- ii) *It preserves and enhances the setting of the nearest settlement*

I do not consider this to be the case - see section below on Landscape Impact.

- iii) *It includes an appropriately sized and designed landscape buffer to the open countryside*

This is not the case - see sections below on Landscape Impact.

- iv) *It is consistent with the local character and built form, including scale, bulk and the materials used.*

The development has little sense of place. See section on Visual Amenity.

- v) *It does not adversely impact on the neighbouring uses or a good standard of amenity for nearby residents.*

See section on Residential Amenity

- vi) *It would conserve biodiversity interest on the site and / or adjoining area and not adversely affect the integrity of international and national protected sites in line with Policy ENV1.*

See section on Biodiversity

21. In addition to the above, Policy HOU10 is also applicable as the development involves the partial redevelopment of the residential garden of Gate House. This issue is discussed in further detail below.
22. I therefore conclude that whilst the site is locationally sustainable it does not meet all of the criteria for residential development in the countryside identified in Policy HOU5. The proposal is therefore contrary to the development plan for the reasons set out in the remainder of this report.

Landscape impact/ Visual Amenity

23. Policy ENV3a requires all proposals for development in the borough to demonstrate a particular regard to a number of landscape characteristics, proportionately, according to the landscape significance of the site. These include in particular: landform, topography and natural patterns of drainage.
24. Policy ENV5 seeks to protect important rural features including public rights of way.
25. Policy HOU5 sets out a list of criteria which must be met if the development is to be deemed acceptable on this site. These include that the development (and any associated infrastructure) is of high quality design and sits sympathetically within the wider landscape. It also requires that development preserves or enhances the setting of the nearest settlement and includes an appropriately sized and designed landscape buffer to the open countryside.
26. Policy SP6 promotes high quality design requiring consideration of a number of criteria including “character, distinctiveness and sense of place” and “Quality of public spaces and their future management”. Policy HOU5 also includes, as one of its required criteria, that the development is “consistent with local character and built form”.
27. The development of this site would represent a significant encroachment into open countryside. Where the site adjoins the village (on its western boundary) the village edge is characterised by low density development where the properties have good-sized gardens which back onto the application site currently forming, for the

greater part, a soft green buffer with open countryside. Only the properties known as Gate House and 16 Townland Close are significantly visible in views from open countryside to the east beyond the site but these views are broken up by the existing planting to the site boundaries.

28. The site falls within the Biddenden and High Halden Farmlands Landscape Character Area which forms part of the Low Weald. The overall guidelines for the area are to conserve and improve the landscape. The site is mostly laid to pasture. Its boundaries with open countryside are defined with hedgerows, trees and ditches with frequent small ponds. This pattern of landscape features forms part of the setting of the village and the wider landscape of the area.
29. There are a number of Public Rights of Way that extend from North Street, in the village conservation area, to the countryside to the east, reinforcing the historic connection between the historic village and open countryside. From these footpaths the rural setting of the village can be appreciated. One path extends east-west to the north of the site; the other at an angle (south-west to north-east) across the field to the east of the site. From these paths the application site forms part of the soft rural edge to the village, made more important by the gentle sloping nature of the site which allows more extensive views into the site from the east than would otherwise be had from a level site. The accessibility between the historic core and open countryside is thus an important one facilitated by the footpaths which connect North Street, within the conservation area, to the open countryside and the importance of the site in this relationship as part of the rural setting of the village.
30. The proposed development by extending the built edge of the village into open countryside would adversely impact upon the rural setting of the village and detrimentally affect its rural character, including views of the village from the footpaths. The proposed layout shows only a narrow landscape buffer with open countryside. I do not consider this to be sufficient to mitigate for the impact of the development, especially in the winter months when the boundary planting would be denuded. In this respect, the proposed development would be contrary to Policies HOU5 and ENV5. I do not consider that the proposed development would sit sympathetically within the wider landscape or preserve the setting of the village.
31. The development would be accessed from Townlands Close to the west, a 20th century looped cul-de-sac. It would effectively double the length of this cul-de-sac resulting in a poorly connected and sprawling layout, constituting an unsympathetic built extension to the village. The development comprises 8 large detached houses (4 and 5 bed), each with a double garage and large areas of hardstanding, arranged around a shared surface road together with 4 semi-detached houses at the entrance into the site. This is a suburban layout that makes little reference to the historic village and its sense of place or consistency of built

form and character. Indeed, the layout is contrived around bringing in the rear garden of Gate House. In this respect, I consider the proposal to be contrary to Policies HOU5 and SP6.

32. Furthermore, the layout / design fails to work in a number of respects. Plot 12 'backs' onto the main access road into the site and as a result provides a poor relationship with the street. The looser grain development between plots 10 – 12 includes areas of open space in no obvious ownership around the parking bays and access road; Units 6 – 11 are large units close to the boundary with open countryside where there is little space for meaningful boundary planting as mitigation.
33. This is not a tenure blind development in that it is made up of large detached houses (4 and 5 bed) for market sale and much smaller semi-detached properties (3 bed) for affordable rent. This lack of tenure blindness extends to the detailed design of the units: whilst there is a high specification elevation treatment / materials evident in all of the elevations of the properties for market sale, it is limited to the frontages of the affordable housing where it wraps the corner slightly only to be replaced by a much lower specification treatment for the majority of the side elevations and the rear elevation (see figure 3 and 4 above).
34. I therefore conclude that the proposed development would conflict with a number of policies in the local plan which seek to protect the landscape and rural features and achieve a high quality of design and layout. As a result, it would have an adverse landscape impact and be harmful to the visual amenity of the area.

Impact on residential amenity

35. The NPPF and adopted development plan both require that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.
36. Policy HOU12 requires developments to meet Nationally Described internal space standards.
37. Policy HOU15 requires developments to provide external amenity space in accordance with the Council's standard.
38. Policy HOU10 concerns development of residential gardens (Gate House).
39. The closest property is Gate House which would be 'wrapped' by the development on three sides. Whilst the relationship between Gate House and Plots 11 and 12 is an uncomfortable one in visual terms (see above), I do not consider that it would be harmful to the residential amenity of the existing residents. Plot 11 would take

in part of the garden of Gate House. Whilst this is not respectful of local character and built form in this instance, there is no residential amenity issue as Gate House would continue to have a garden in excess of the standard and the new unit would not be overbearing/result in any overlooking of Gate House.

40. The proposed development meets Nationally Described Space Standards for internal space and provides outdoor space in accordance with national and local planning policy.
41. I consider that the proposed layout would not be harmful to residential amenity.

Highway safety

42. It is not intended that the road would be adopted and on this basis KCC Highways is satisfied that the access and layout is workable and would not be detrimental to highway safety. The proposal makes sufficient provision for parking in accordance with the standard.
43. No objections are raised in this respect subject to a number of conditions.

Flood Risk / Drainage (surface and foul)

44. The site falls within flood zone 1 where there is minimal risk from flooding. Due to site conditions, the applicants have concluded that open attenuation is not possible, a view that is shared by the KCC Flood and Water Management. The proposed surface water strategy relies on restricted discharge by gravity to the ditch to the south. It assumes that the access road utilises permeable paving (and is not therefore adopted by KCC Highways but to be built to an adoptable standard). KCC F&M have raised no objections subject to conditions to secure a detailed sustainable surface water drainage scheme.
45. A concern initially raised by the KCC F&M related to the proximity of development to the ditches but the applicants have indicated that the ditches would, in fact, be managed by the management company, which would also manage the habitat area and permeable paving. The management company would use small diggers to access harder to reach areas. No objection is raised on this basis.
46. Southern Water has identified that there would be an increased risk of flooding unless network reinforcement is provided by them and have requested a phased approach to the development and an appropriate condition to secure this.
47. In light of the above, I consider that subject to conditions the proposal will not result in any adverse flood risk and that drainage can be adequately accommodated on site.

Biodiversity

48. Policy ENV1 seeks to conserve and enhance biodiversity.

49. The site is of medium / high ecological value. KCC Biodiversity is satisfied that the submitted documents provide details of mitigation to ensure the ecological interest of the site is maintained. Conditions are requested in respect of securing the mitigation set out in the Ecology Mitigation Strategy; ecological management and enhancement.
50. Based on the information submitted and the responses received from KCC, I am satisfied that the LPA had fulfilled its duty to appropriately assess the development under Regulation 9(5) of the conservation of Habitats and Species Regulation 2010. Subject to conditions, the proposed development is not considered to result in any adverse impacts to matters of ecological importance in accordance with the relevant policies set out in European and UK law as well as in the adopted development plan and NPPF.

Contamination

51. There are a number of sources of potential contamination. There was previously an agricultural building in the northern corner of the site (now the back garden of Gate House and inside the application site) which was accessed along a track just outside the southern boundary of Gate House. The agricultural building and track have been removed and the land made good, but the contamination study has identified these as a potential source of contamination from these previous phases of construction and demolition and infilled land / ponds off-site.
52. In addition to the above, a railway line previously passed north – south to the east of the site and the buffer zone for this line for potential contamination clips the NE corner of the site. The applicants undertook intrusive investigation at this corner of the site as part of their Contamination Assessment.
53. Environmental Protection is satisfied with the investigation that has been carried out and raises no objections subject to conditions.

Housing mix / affordable housing

54. In respect of affordable housing, under policy HOU1 of the adopted Local Plan, this would require the development to provide 40%. The 40% would need to consist of 10% of total number of units as Affordable/Social Rented and 30% of the total number of units as Affordable Home Ownership Products of which 20% of the total number of Affordable Home Ownership Product units shall be shared ownership. The affordable housing element would be secured as such in perpetuity through the S106 Agreement.
55. This proposal makes provision for just 4 affordable housing units (35%) which is contrary to policy. The failure to provide affordable housing in accordance with the policy is a reason for refusing this application.

56. Policy HOU14 requires 20% of all new build homes to be built in compliance with building regulations part M4 (2) as a minimum standard. This would be secured in the legal agreement.
57. Policy HOU18 of the adopted local plan seeks to achieve a range and mix of dwelling types and sizes in developments of over 10 units. All 8 units for private sale are large detached units with either four or five bedrooms whereas the smaller units are all affordable housing. I do not consider this to be a good mix on this site.
58. In light of the above I consider the proposal fails to provide affordable housing in accordance with the policy. I also raise objections to the housing mix in terms of the lack of smaller units for private sale.

Other matters

59. The proposed development would create an economic benefit from construction, with employment for contactors, local tradespeople, their spending in the local area and in the supply chain. Whilst for a temporary period this would have some benefit.
60. The increase in the local residential population would increase expenditure in the local economy as this would comprise some people who have moved from elsewhere. However, no evidence has been submitted to suggest that local shops are struggling through a lack of custom.

Whether planning obligations are necessary

61. Regulation 122 of the Community Infrastructure Regulations 2010 says that a planning obligation may only constitute a reason for granting planning permission for a development if the obligation is:
 - (a) necessary to make the development acceptable in planning terms,
 - (b) directly related to the development; and
 - (c) fairly and reasonably related in scale and kind to the development
62. The planning obligations in Table 1 have been assessed against Regulation 122 and for the reasons given consider they are all necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to the development. As the applicant has not entered into a S106 Agreement with the Council then this constitutes a reason for refusal in this case. Clearly, should an acceptable S106 Agreement be provided as part of the appeal then the Council would not contest this reason for refusal.

63. As a proposal for 10 or more dwellings the development would trigger a requirement to provide 40% affordable housing split into the mix as set out in the report. 20% of the dwellings shall be built to higher accessibility standards (Part M4 (2) of the Building Regulations). KCC have requested contributions towards additional book stock for libraries, youth, social care and community learning.
64. The Council have identified projects for offsite contributions in accordance with the Public Green Spaces and Water Environment SPD although some projects are still yet to be confirmed.
65. The NHS Canterbury and Coastal and NHS Ashford Clinical Commissioning Groups has not, as yet, requested S106 contributions. Confirmation is being sought as to whether they would like to see a contribution towards the extension / improvement of the Ivy Church surgery in Tenterden and this will be reported at planning committee if a response has been received.
66. Should projects not be identified for some of these potential contributions or indeed some projects get amended then delegated authority is requested to amend the S106 agreement accordingly.

Table 1

Planning Obligation			Regulation 122 Assessment
Detail	Amount(s)	Trigger Point(s)	
<p>1. <u>Affordable Housing</u> Provide not less than 35% of the units as affordable housing, comprising 10% affordable / social rent and 30% Affordable Home Ownership Products (including a minimum of 20% shared ownership in the locations and with the floorspace, wheelchair access (if any), number of bedrooms and size of bedrooms as specified.</p> <p>The affordable housing shall be managed by a registered provider of social housing approved by the Council. Shared ownership units to be leased in the terms specified. Affordable rent units to be let at no more than 80% market rent and in</p>	35%	Affordable units to be constructed and transferred to a registered provider upon occupation of 75% of the open market dwellings.	<p>Necessary as would provide housing for those who are not able to rent or buy on the open market pursuant to SP1 & HOU1 of the Local Plan 2030, the Affordable Housing SPD and guidance in the NPPF.</p> <p>Directly related as the affordable housing would be provided on-site in conjunction with open market housing.</p> <p>Fairly and reasonably related in scale and kind as based on a proportion of the total number of housing units to be provided.</p>

	accordance with the registered provider's nominations agreement.			
2.	<p><u>Accessible Housing</u></p> <p>At least 20% of all homes shall be built in compliance with building regulations M4(2) as a minimum standard.</p> <p>In accordance with policy HOU14 part a).</p>	Provide on-site 20% of all units.	Prior to first occupation of any dwelling to be built in accordance with the standard.	<p>Necessary as would provide accessible housing pursuant to SP1, HOU14 of Local Plan 2030 and guidance in the NPPF.</p> <p>Directly related as accessible homes for those with reduced mobility would be provided on-site.</p> <p>Fairly and reasonably related in scale and kind as based on a proportion of the total number of housing units to be provided.</p>
3.	<p><u>Children's and Young People's Play</u></p> <p>Off-site contribution towards outdoor gym equipment in play area</p>	<p>£649 per dwelling for capital costs</p> <p>£663 per dwelling for maintenance</p>	Before completion of 75% of the dwellings	<p>Necessary as children's and young people's play space is required to meet the demand that would be generated and must be maintained in order to continue to meet that demand pursuant to Ashford Local Plan policies COM1, COM2, IMP1 & IMP2, Public</p>

				<p>Green Spaces and Water Environment SPD and guidance in the NPPF.</p> <p>Directly related as occupiers will use children's and young people's play space and the play space to be provided would be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and the number of occupiers and the extent of the facilities to be provided and maintained and the maintenance period is limited to 10 years.</p>
4.	<p><u>Community Learning</u></p> <p>Towards additional IT and equipment for additional learners from the development</p>	£34.46 per dwelling	<p>Half the contribution upon occupation of 25% of the dwellings and balance on occupation of 50% of the dwellings</p>	<p>Necessary for community learning space available to meet demand that would be generated (and pursuant to Local Plan 2030 Policies SP1, COM1 and IMP1 and guidance in the NPPF.</p> <p>Directly related as occupiers will use the community learning and skills service.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and because the</p>

				amount calculated, is based on the number of dwellings.
5.	<p><u>Informal/Natural Space</u></p> <p>Contribution towards multipurpose path around Gordon Jones playing field</p>	<p>£434 per dwelling for capital costs £325 per dwelling for maintenance</p>	<p>Before completion of 75% of the dwellings</p>	<p>Necessary as improvements to the informal/natural green space is required to meet the demand that would be generated and must be maintained in order to continue to meet that demand pursuant to Ashford Local Plan policies COM1, COM2, IMP1 & IMP2, Public Green Spaces and Water Environment SPD and guidance in the NPPF.</p> <p>Directly related as occupiers will use informal/natural green space and the space to be provided would be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and the number of occupiers and the extent of the facilities to be provided and maintained and the maintenance period is limited to 10 years.</p>
6.	<p><u>Outdoor Sports</u></p>		<p>Before</p>	<p>Necessary as outdoor sports pitches are required to meet the demand that</p>

	<p>Offsite provision at Gordon Jones playing field to bring all sports pitches up to a good standard and increase playing capacity.</p>	<p>£1,589 per dwelling for capital costs £326 per dwelling for maintenance</p>	<p>completion of 75% of the dwellings</p>	<p>would be generated and must be maintained in order to continue to meet that demand pursuant to Ashford Local Plan policies COM1, COM2, IMP1 & IMP2, Public Green Spaces and Water Environment SPD and guidance in the NPPF.</p> <p>Directly related as occupiers will use sports pitches and the facilities to be provided would be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and the number of occupiers and the extent of the facilities to be provided and maintained and the maintenance period is limited to 10 years.</p>
<p>7.</p>	<p><u>Social Care</u> <u>Towards extra care accommodation within the borough</u></p>	<p>£146.88 per dwelling</p>	<p>Half the contribution upon occupation of 25% of the dwellings and balance on occupation of 50% of the dwellings</p>	<p>Necessary for social care available to meet demand that would be generated and pursuant to Local Plan 2030 Policies SP1, COM1 and IMP1 and guidance in the NPPF.</p> <p>Directly related as occupiers will use the community learning and skills service.</p>

				<p>Fairly and reasonably related in scale and kind considering the extent of the development and because the amount calculated, is based on the number of dwellings.</p>
8.	<p><u>Strategic Parks</u></p> <p>Contribution to picnic areas, tables, seating and associated landscaping at Conningbrook</p>	<p>£146 per dwelling for capital costs</p> <p>£47 per dwelling for maintenance</p>	<p>Before completion of 75% of the dwellings</p>	<p>Necessary as strategic parks are required to meet the demand that would be generated and must be maintained in order to continue to meet that demand pursuant to Ashford Local Plan policies COM1, COM2, IMP1 & IMP2, Public Green Spaces and Water Environment SPD and guidance in the NPPF.</p> <p>Directly related as occupiers will use strategic parks and the facilities to be provided would be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and the number of occupiers and the extent of the facilities to be provided and maintained and the maintenance period is limited to 10 years.</p>

9.	<p>Libraries</p> <p>Towards additional bookstock for the mobile library service attending in Biddenden</p>	£48.02 per dwelling	Half the contribution upon occupation of 25% of the dwellings and balance on occupation of 50% of the dwellings	<p>Necessary as more books required to meet the demand generated and pursuant to Local Plan 2030 Policies SP1, COM1 and KCC's 'Development and Infrastructure – Creating Quality Places' and guidance in the NPPF.</p> <p>Directly related as occupiers will use library books and the books to be funded will be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and because the amount calculated, is based on the number of dwellings.</p>
10.	<p>Youth</p> <p>Towards additional resources for youth service locally in Tenterden</p>	£65.50 per dwelling	Half the contribution upon occupation of 25% of the dwellings and balance on occupation of 50% of the dwellings	<p>Necessary for youth services space available to meet demand that would be generated (3.6 clients) and pursuant to Local Plan 2030 Policies SP1, COM1 and IMP1 and guidance in the NPPF.</p> <p>Directly related as occupiers will use the community learning and skills service.</p>

				Fairly and reasonably related in scale and kind considering the extent of the development and because the amount calculated, is based on the number of dwellings.
11.	Health Care Extension, refurbishment and/or upgrade of Ivy Court Surgery, Tenterden	£504 for each 1-bed dwelling £720 for each 2-bed dwelling £1,008 for each 3-bed dwelling £1,260 for each 4-bed dwelling £1,728 for each 5-bed dwelling or larger	Half the contribution upon occupation of 25% of the dwellings and balance on occupation of 50% of the dwellings	Necessary as additional healthcare facilities required to meet the demand from additional occupants that would be generated pursuant to Local Plan 2030 Policies SP1, COM1 and IMP1 and guidance in the NPPF. Directly related as occupiers will use healthcare facilities and the facilities to be funded will be available to them. Fairly and reasonably related in scale and kind considering the extent of the development and because the amount has been calculated based on the estimated number of occupiers.
12.	<u>Monitoring Fee</u> Contribution towards the Council's costs of monitoring compliance	£1000 per annum until development is completed	First payment upon commencement of development and on	Necessary in order to ensure the planning obligations are complied with.

	with the agreement or undertaking.		the anniversary thereof in subsequent years (if not one-off payment)	<p>Directly related as only costs arising in connection with the monitoring of the development and these planning obligations are covered.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and the obligations to be monitored.</p>
<p>Notices will have to be served on the Council at the time of the various trigger points in order to aid monitoring. All contributions to be index linked as set out on the council web site in order to ensure the value is not reduced over time. The costs and disbursements of the Council's Legal Department incurred in connection with the negotiation, preparation and completion of the deed are payable. The Kent County Council may also require payment of their legal costs.</p> <p>If an acceptable agreement/undertaking is not completed within 3 months of the committee's resolution to grant, the application may be refused.</p>				

Human Rights Issues

67. I have also taken into account the human rights issues relevant to this application. In my view, the “Assessment” section above and the Recommendation below represent an appropriate balance between the interests and rights of the applicant (to enjoy their land subject only to reasonable and proportionate controls by a public authority) and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties).

Working with the applicant

68. In accordance with paragraphs 38 of the NPPF, Ashford Borough Council (ABC) takes a positive and creative approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and creative manner as explained in the note to the applicant included in the recommendation below.

Conclusion

69. Applications should be determined in accordance with the adopted development plan unless material considerations suggest otherwise. Whilst this development would deliver 12 units of housing, including 35% affordable housing and have some economic benefits during the construction phase, these benefits are far outweighed by the negative impacts of the proposal.
70. The proposed development, whilst sustainable in terms of its location, would introduce development into an edge of village site encroaching on open countryside thereby harming the rural setting of the village which is experienced from the public footpaths in the vicinity of the site. The development would fail to provide sufficient affordable housing in accordance with the policy or provide an appropriate range and mix of units.
71. The proposed development would conflict with a number of policies in the local plan that seek to protect the landscape, rural features and achieve a high level of visual amenity and that the harm caused would significantly outweigh any limited benefits of the scheme. It would also fail to provide 40% affordable housing in accordance with the policy and provide a poor range and mix of dwelling types and sizes. On this basis the proposal represents an unsustainable and harmful development of the site.

Resolved:

REFUSE to grant permission on the following grounds:

- (1) The proposal would be contrary to Policies SP1, SP2, SP6, HOU1, HOU5, HOU10, HOU14, HOU18, ENV3a, ENV5, COM1, COM2, COM3, COM4, IMP1 and IMP2 of the Ashford Local Plan 2030 and the National Planning Policy Framework and would therefore represent development contrary to interests of acknowledged planning importance which are not considered to be outweighed by the benefits of the development cited by the applicant, for the following reasons:-
- (a) The proposed development would have a significant adverse visual impact on land forming part of the Low Weald National Landscape Character Area and the Biddenden and High Halden Farmlands Landscape Character Area (LCA), impacting upon its rural character that forms an important component of the setting of Biddenden and views of the village from the public rights of way. This is due both to the extent of encroachment into open countryside and the way the site slopes down towards open countryside which increases its prominence in the wider landscape, and to its undeveloped state. The erection of dwellings and infrastructure on the site would unacceptably urbanise and domesticate this important undeveloped area to the detriment of the visual amenity of the area. The proposal would also be highly visible from the public rights of way thereby exacerbating the visual harm. The proposal represents unsustainable development which would detract from the character and appearance of the countryside and visual amenity of the area.
 - (b) The proposed development would extend the existing looped cul-de-sac known as Townlands Close resulting in a poorly connected and sprawling form of development which would be inconsistent with local character and built form in this part of the village which is characterised by 'tight' modern cul-de-sac development off North Street. This would be at odds with the prevailing form and grain of this part of the village and would further exacerbate the visual harm identified in reason a) above.
 - (c) The proposed development fails to provide a range and mix of dwelling types and sizes with all units for private sale being large detached units with either four or five bedrooms and the affordable housing confined to smaller units. This mix results in a non-tenure blind development which is exacerbated by the poorer elevational treatment to the affordable homes where the quality materials/treatment do not extend to all elevations unlike in the

homes for private sale. This would be socially and environmentally unsustainable causing harm to the area.

- (d) The proposal fails to provide an acceptable level of affordable housing contrary to the development plan and resulting in a socially unsustainable form of development by failing to meet the housing needs of the borough
- (e) The necessary planning obligation has not been entered into in respect of the list below so that the proposed development is unacceptable by virtue of failing to mitigate its impact and failing to meet demand for services and facilities that would be generated and the reasonable costs of monitoring the performance of the necessary obligations:
- i. 40% Affordable housing
 - ii. Libraries
 - iii. Sports – outdoors
 - iv. Informal/natural
 - v. Play space
 - vi. Strategic Parks
 - vii. Health care infrastructure
 - viii. Community learning
 - ix. Youth services
 - x. Social care

Working with the Applicant

In accordance with paragraphs 38 of the NPPF Ashford Borough Council (ABC) takes a positive and creative approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and creative manner by;

- offering a pre-application advice service,
- as appropriate updating applicants/agents of any issues that may arise in the processing of their application
- where possible suggesting solutions to secure a successful outcome,

- informing applicants/agents of any likely recommendation of refusal prior to a decision and,
- by adhering to the requirements of the Development Management Customer Charter.

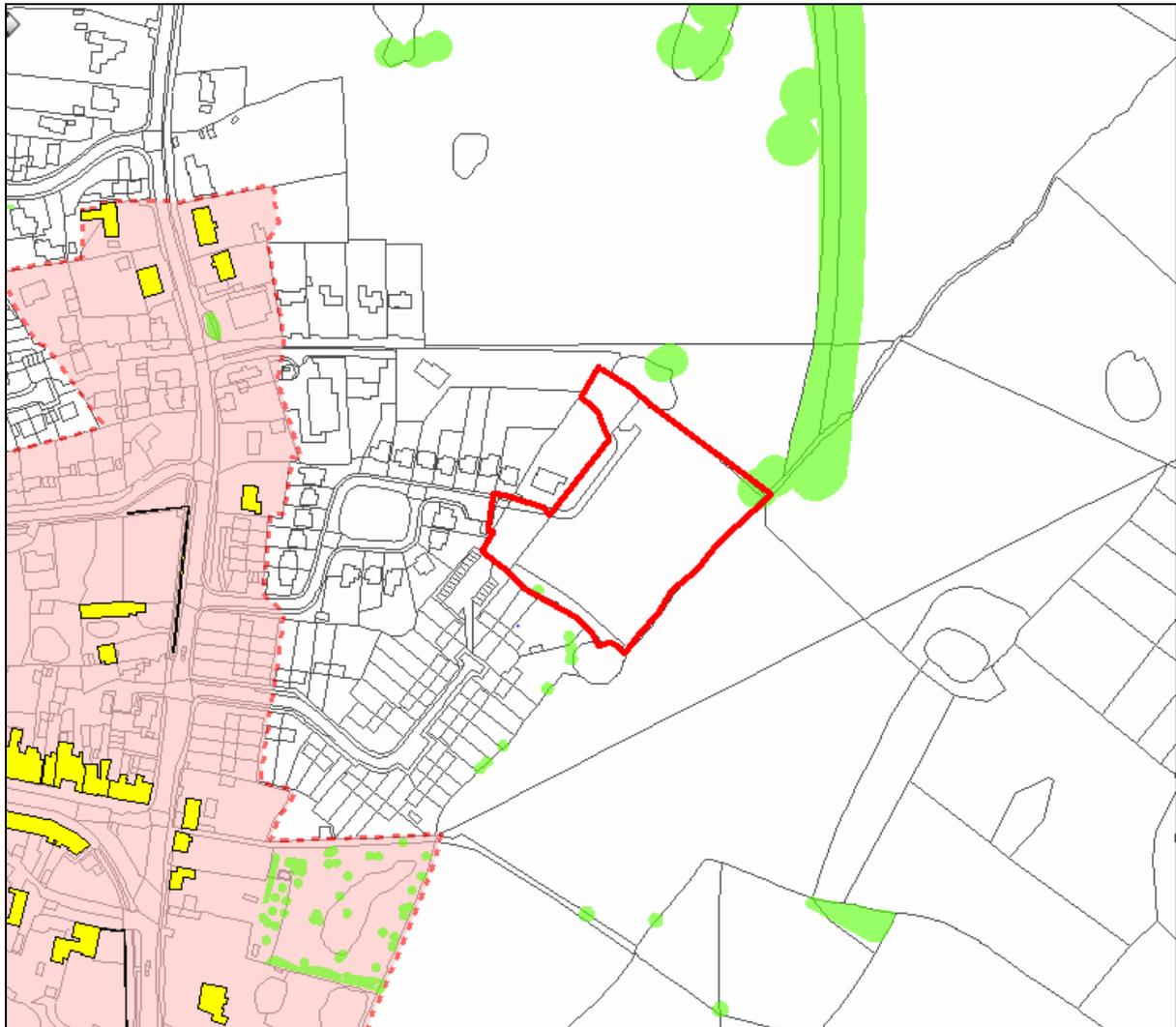
In this instance

- the applicant/agent was updated of any issues after the initial site visit,
- was provided with pre-application advice,
- The applicant was provided the opportunity to submit amendments to the scheme/ address issues.
- The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

Background Papers

All papers referred to in this report are currently published on the Ashford Borough Council web site (www.ashford.gov.uk). Those papers relating specifically to this application may be found on the [View applications on line](#) pages under planning application reference 18/01273/AS)

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Annex 1