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5 August 2004

**TOWN AND COUNTRY PLANNING ACT 1990, SECTIONS 77 & 78**

**APPLICATION BY ROUSE KENT Ltd,**

**LAND AT KINGS HILL, WEST MALLING, KENT AND HEATH FARM EAST MALLING  
KENT**

**APPEAL BY SOUTH THAMES REGIONAL HEALTH AUTHORITY**

**LAND AT LEYBOURNE GRANGE HOSPITAL, BIRLING ROAD, LEYBOURNE, KENT**

**APPEALS BY TRENPORT INVESTMENTS LIMITED**

**LAND AT HOLBOROUGH QUARRY, HOLBOROUGH ROAD, SNODLAND, KENT AND  
AGRICULTURAL LAND NORTH OF PADDLESWORTH ROAD, ADJOINING EXISTING  
PLAYING FIELDS, SNODLAND KENT**

1. I am instructed by the First Secretary of State to inform you that consideration has been given to the report of the Inspectors, David Harmston FRICS DipTP MRTPI assisted by David Wildsmith BSc (Hons) MSC Ceng MICE FIHT MRTPI and John Papworth Dip Arch (Glos) RIBA, who held an inquiry into:
  - the application by Rouse Kent Ltd to Tonbridge and Malling Borough Council for outline planning permission for an additional 92,900 sqm of class B1 business floorspace, residential development, public open space, sports leisure and recreation facilities and associated infrastructure at Kings Hill, West Malling and at Heath Farm, East Malling, Kent [ref: TM/02/03429/OAEA] (Kings Hill)
  - the appeal by South Thames Regional Health Authority against the failure by Tonbridge and Malling Borough Council to determine within the prescribed period its application for outline planning permission for residential development by the conversion of the existing buildings and the erection of dwellings together with access roads, community hall shop, primary school site and lay-by [ref: TM/94/1253/O/A] (Leybourne Grange)
  - the appeals by Trenport Investments Limited against the failure by Tonbridge and Malling Borough Council to determine within the prescribed period its applications for planning permission for, the provision of playing fields as an extension to existing facilities, on agricultural land north of Paddlesworth Road, adjoining existing

playing fields, Snodland, Kent (ref: TM/01/02747/FLEA); the formation of a landscaped bund on land forming part of the former Holborough Quarry, Holborough Road, Snodland, Kent (TM/01/02748/FLEA); and, the formation of new development platforms and residential development, provision of reserve primary school site; highway, pedestrian and cycle access, open space and landscaping on land comprising the former Holborough Quarry and adjoining parcels, Holborough Road, Snodland, Kent [TM/01/02746/OLEA] (Holborough Valley).

2. The Inspectors, whose conclusions are attached as an annex to this letter, recommended that planning permission should be granted for all the proposed developments that are the subject of this application and appeals. All paragraph references in this letter are to the Inspectors' report unless otherwise stated.
3. The Secretary of State, for the reasons set out below, is minded to agree to the Inspectors' recommendations. With regard to the Holborough Valley appeals the Secretary of State is minded to allow the appeals assuming the appellant enters into an undertaking with Kent County Council to make an appropriate contribution towards funding the A20 bus priority scheme. The Secretary of State is minded to grant permission, subject to conditions, for the Kings Hill and Leybourne Grange proposals without reservation; however as the form of the conditions to be attached to these permissions will be influenced by whether permission is granted for the Holborough Valley scheme he cannot, at this time, grant planning permission.

### **Procedural Matters**

4. The Secretary of State notes that the description of the proposed development as regards the Leybourne Grange appeal has been amended to read "the demolition of the existing hospital and residential development of up to 702 dwellings, together with access roads, community hall shop, primary school site and lay-by". He has determined the appeal on the basis of the amended description.
5. The Secretary of State also notes that the description of the proposed development as regards the application for residential development at Holborough Valley (TM/01/02746/OLEA) has been amended to read "formation of new development platforms and residential development, provision of reserve primary school site; buildings for community activities including doctor's surgery; highway, pedestrian and cycle access, open space and landscaping". He has determined the appeal on the basis of the amended description
6. In reaching his decisions the Secretary of State has taken account of the Environmental Statements that were submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, and the additional environmental information presented to the Inspector before and during the inquiry. The Secretary of State is content that the Environmental Statements all comply with the above regulations and sufficient evidence has been provided for him to assess the environmental impact of each of the three schemes.
7. The Secretary of State has today issued a separate letter setting out his decisions on the applications by the Director of Health and Social Care (South) for planning permission and listed building consent for the conversion of Leybourne Grange and its stable block into apartments (TM/03/02112/FL & TM/03/02113/LB).

## Policy Considerations

8. Section 54A of the Town and Country Planning Act 1990 requires that proposals be determined in accordance with the Development Plan unless material considerations indicate otherwise. In these cases the Development Plan comprises the Tonbridge and Malling Local Plan, adopted in December 1998, and the Kent Structure Plan, adopted in 1996. There is an emerging structure plan, the Kent and Medway Structure Plan, the deposit draft of which was published in September 2003. As the emerging Structure Plan has yet to complete its Examination in Public (EiP) the Secretary of State has placed limited weight upon its policies.
9. In coming to his decisions the Secretary of State has taken into account the relevant national and regional policy guidance including; Planning Policy Guidance note 1: General Policy and Principles (PPG1); Planning Policy Guidance note 2: Green Belt (PPG2); Planning Policy Guidance note 3: Housing (PPG3); Planning Policy Guidance note 4: Industrial, Commercial Development and Small Firms (PPG4); Planning Policy Guidance note 7: The Countryside (PPG7); Planning Policy Guidance note 13: Transport (PPG13); Planning Policy Guidance note 15: Planning and the Historic Environment (PPG15); Planning Policy Guidance note 16: Archaeology and Planning (PPG16); Planning Policy Guidance note 24: Planning and Noise (PPG24); and Regional Planning Guidance for the South East (RPG9).

## Consideration

### Main issues

10. The Secretary of State agrees with the Inspectors that the main issues in deciding these cases are as set out in IR15.15. For convenience his conclusions are set out under three overarching headings covering the issues that apply to all three schemes under consideration before going on to consider site-specific issues.
11. The three overarching headings are:
  - whether the proposed developments would have an unacceptable impact on the local supply of housing land;
  - what contribution the proposed developments would make towards meeting the identified local need for affordable housing; and
  - the impact of the proposed developments upon the local highway network and whether the undertakings offered by the developers would mitigate any potential harm to the free flow of traffic.
12. The site specific issues include:
  - whether the housing elements of the proposed developments comply with the advice in PPG3;
  - for Leybourne Grange, whether the proposed development would constitute inappropriate development in the Green Belt. Also whether acceptable measures can be taken to mitigate the impact of noise from the M20 on dwellings in the northern section of the site.
  - For Kings Hill, whether the proposed mix of uses is appropriate.

## Matters of fact

13. With regard to the 'matters of fact' set out by the Inspectors in IR15.14 the Secretary of State considers that some of them are better described as opinions rather than facts. However the Secretary of State notes that the parties have generally agreed them and on the evidence before him he accepts the Inspectors' conclusions on these issues, for the reasons given by the Inspectors.

## Housing Land Supply

14. The Secretary of State concludes that on the basis of the evidence before him the proposed developments would increase the likely oversupply of housing in the Borough against the structure plan target in the period to 2011. He agrees with the Inspectors (IR15.23) that even without these proposed developments there will be a significant oversupply of housing land, in the order of 500 dwellings.

15. However he agrees with the Inspectors (IR15.21 and 15.25) that in the medium to longer term, particularly the period 2011 to 2021, there is likely to be a shortage of land suitable for meeting the borough's need for new housing. Therefore it is highly likely that in the medium term, these sites will be required to meet the area's housing need, even if they are not needed to meet the structure plan target at the present moment. Also in light of the considerable evidence that demand is currently outstripping the supply of new housing in the area the release of these sites at this time will not have detrimental affect on the local housing market nor preclude other, potentially more sustainable, sites from coming forward.

16. The Secretary of State concludes that the proposed developments would increase the likely oversupply of housing against the structure plan target and that this is a consideration against granting permission for any of them. But for the reasons given above he does not consider that the oversupply is a consideration of sufficient weight to be an overriding factor in this case.

## Affordable Housing

17. The Secretary of State agrees with the Inspectors' conclusions in IR15.65 to IR15.71, for the reasons given by the Inspectors. The Secretary of State concludes that there is a large and pressing need for affordable housing in the area. He also considers that the Borough Council faces great difficulty in meeting this need due to the constraints on development, such as the Green Belt in the district and the resulting lack of available large sites upon which the construction of affordable housing as part of a development of market housing would be economic. He therefore concludes that the significant contribution the proposed developments would make towards meeting the need for affordable housing is a material consideration of substantial weight in favour of granting them planning permission. One that, in the circumstances of this case, outweighs the likely increase in the oversupply of housing against the Structure Plan target that would result.

## Transport

18. The Secretary of State agrees with the Inspectors that the transport policies listed in IR15.80 are those relevant to these proposals.

19. The Secretary of State agrees with the Inspectors' assessment of the transport network in the area (IR15.81 to IR15.86) and the existing traffic conditions (IR 15.87). The

Secretary of State notes the findings of the Traffic & Development Study (IR15.88 to IR15.91) and agrees with the Inspectors' conclusions at IR15.92 for the reasons given.

*Predicted traffic conditions in 2016, with committed developments*

20. The Secretary of State agrees with the Inspectors' assessment of the predicted traffic conditions in 2016 (IR15.93 to IR15.97).

*Construction of Leybourne & West Malling bypass - the Modified Orange Route (MOR);*

21. The Secretary of State agrees with the Inspectors' conclusions and reasoning concerning the Modified Orange Route (IR15.98 to IR15.115). The Secretary of State agrees with the Inspectors that the traffic generated by Leybourne Grange and Holborough Valley could not be satisfactorily accommodated on the A228 without the MOR. He therefore considers that the MOR is required before any development should proceed and he agrees with the Inspectors that Grampian conditions should be imposed on each development to that effect (IR15.115).

*Improvements to M20 junction 4*

22. The Secretary of State agrees with the Inspectors' conclusion (IR15.120) on the improvements to M20 junction 4, for the reasons given in IR15.116 to IR15.119. (The proposed improvements are all shown on Drawing No. TUE91005A/500/D).

*Bus priority measures on the A20*

23. The Secretary of State agrees with the Inspectors' conclusion that each development should contribute towards the bus priority scheme on the A20 and that planning permission should not be granted unless contributions are forthcoming (IR15.124) for the reasons given in IR15.121 to 15.127. The Secretary of State further agrees with the Inspectors' assessment concerning the amount of contribution to be secured from each developer for the reasons given (IR15.127 to IR15.135).

24. However the Secretary of State disagrees with the Inspectors that the contribution from Holborough Valley should be secured by condition (IR15.135). He does not consider that this condition is in accordance with the guidance in Circular 11/95 as it contains too many uncertainties to make the condition enforceable or reasonable. The Secretary of State considers therefore, that before planning permission can be granted for the Holborough Valley proposal, the appropriate contribution to the A20 bus lane improvement scheme should be agreed with the County Council and secured through a planning obligation made pursuant to section 106 of the Town and Country Planning Act 1990.

*Improvements to public transport services*

25. The Secretary of State agrees with the Inspectors' conclusions on the improvement to the public transport services in IR15.136 for the reasons given in that paragraph.

*Traffic management measures on local roads*

26. The Secretary of State agrees with the Inspectors' conclusions on the traffic management measures (IR15.140) for the reasons given in IR15.137 to IR15.140.

### *Granting permission for all three proposals*

27. The Secretary of State discusses the specific transport issues relating to each proposal below. However, he agrees with the Inspectors' conclusion at IR15.225 that in transportation/sustainability terms, planning permission for all three developments should be granted subject to the provisions of the signed section 106 agreements offered by each of the developers and subject to Holborough Valley agreeing a contribution to the A20 bus priority scheme and the imposition of planning conditions for the reasons given in IR15.212 to IR15.224 and IR15.226 to IR15.223. With the exception that, the contribution to the A20 bus priority scheme shall not be secured through a condition as outlined by the Inspectors in IR15.232 bullet 6 under the Holborough Valley heading on page 286.

### Leybourne Grange

#### *PPG3*

28. The Secretary of State agrees with the Inspectors' conclusion in IR 15.30 that for the purposes of PPG3, the area of the Leybourne Grange site that it is proposed will be developed for houses is previously developed land. The Secretary of State also agrees with the Inspectors' conclusions in IR15.38 to IR15.40 and IR15.51 to IR15.52, for the reasons given by the Inspectors.

#### *PPG2*

29. The Secretary of State agrees with the Inspectors' conclusions in IR15.41 to IR15.48, for the reasons given by the Inspectors, except for the following point. As he accepts that the proposal would not be inappropriate development in the Green Belt he has not found it necessary to consider whether there are 'very special circumstances'.

#### *Noise*

30. The Secretary of State agrees with the Inspectors' conclusions in IR15.49 to IR15.50, for the reasons given by the Inspectors.

#### *Transport*

31. The Secretary of State agrees with the Inspectors that there is no fatal conflict between the Leybourne Grange proposal and the adopted and emerging local policies which seek to promote accessibility by non-car modes (IR15.80), nor with national guidance in PPG13 (IR15.154) for the reasons given in IR15.148 to IR15.153. However he also agrees that the Leybourne Grange scheme is only just adequate in sustainable transport terms (IR15.153), and concludes, in agreement with the Inspectors, that the greater the development undertaken (i.e. following Option 1) the greater the level of sustainability that would be achieved (IR15.154). Therefore he concludes that the development should proceed in line with the Environmental Statement's Option 1.

### Kings Hill

#### *PPG3*

32. The Secretary of State agrees with the Inspectors' conclusions in IR15.34 to IR15.37, for the reasons given by the Inspectors.

### *Mix of Uses*

33. The Secretary of State agrees with the Inspectors' conclusions in IR 15.53 to IR15.64, for the reasons given by the Inspectors.

### *Transport*

34. The Secretary of State agrees with the Inspectors' conclusion on the Kings Hill work travel plan (IR15.143) for the reasons given in IR15.141 to IR15.143.

35. The Secretary of State agrees with the Inspectors that the Kings Hill proposal would accord with the relevant adopted and emerging development plan policies (IR15.80), as well as with the Government planning guidance in PPG3 and PPG13 (IR15.178) for the reasons given in IR15.167 to IR15.179.

36. The Secretary of State notes the Inspectors' concern about the proposals for controlling the residential parking for Kings Hill (IR15.180). He agrees with the Inspectors' recommendation that the same condition controlling residential parking be attached to all three permissions (IR15.182) for the reasons given in IR15.180 and IR15.181.

### Holborough Valley

#### *PPG3*

37. The Secretary of State agrees with the Inspectors' conclusions in IR 15.31 to IR15.33, for the reasons given by the Inspectors.

#### *Social Infrastructure*

38. The Secretary of State considers in light of the planning obligations offered by the developers and the evidence of Kent County Council, as the LEA, that the proposed development at Holborough Valley would not have a significant harmful effect on the social infrastructure of Snodland.

### *Transport*

39. The Secretary of State agrees with the Inspectors' conclusion that the Holborough Valley proposal would result in a sustainable development well served by non car modes (IR15.164), for the reasons given in IR15.155 to IR15.163. As such, It would accord with the relevant adopted and emerging development plan policies (IR15.80) and with national guidance in PPG13. However as outlined in paragraphs 24 and 27 above, although the Secretary of State agrees with the Inspectors that Holborough Valley should make a contribution to the A20 bus priority scheme, he disagrees that this can be secured by condition and must be agreed through a S106 before planning permission is granted for this application.

### Environmental Statements

40. The Secretary of State agrees with the Inspectors' conclusions in IR15.72 to 15.74, for the reasons given by the Inspectors.

### Other matters

41. The Secretary of State agrees with the Inspectors' conclusions in IR15.75 to 15.76, for the reasons given by the Inspectors.

## Overall Conclusions

42. The Secretary of State concludes that all three schemes are generally in line with the provisions of the Development Plan, all three sites are allocated for their proposed uses in the Local Plan and none of the proposals seriously conflict with any of plans' detailed policies.
43. Although the granting of planning permission for these schemes would result in an increase in the projected oversupply of housing against the structure plan target this consideration is outweighed, in the particular circumstances of this case, by the contribution the proposed developments would make towards meeting the acute local need for affordable housing.
44. All three proposals would comply with development plan policies relating to transport, highways and sustainability issues. There would be significant advantages in transport terms if all three developments were implemented. This would maximise the amount of transport infrastructure and public transport subsidy to be achieved and would optimise the number of potential customers for the public transport services, thereby assisting their viability.
45. The construction of the MOR is an essential pre-requisite to any of the developments and its construction should be secured before any development commences, although some "enabling" development could proceed on the sites in advance of its completion. The traffic from all of the developments could be accommodated satisfactorily on the network, including Junction 4 of the M20, subject to the Agreements, Undertakings and the attached conditions.
46. The implementation of the package of works that would come forward as a direct result of the completion of these developments would be to the public benefit and would improve the quality of life in the area. The Secretary of State therefore concludes that this is a material consideration of significant weight in these decisions.
47. With regard to the Leybourne Grange proposal the Secretary of State considers that the proposed development would not constitute inappropriate development in the Green Belt and would generally comply with the advice in PPG3. Although the appeal site would not particularly well served by public transport the Secretary of State considers that this is outweighed by the contribution the proposed development will make towards meeting the need for affordable housing and the benefit of reusing the disused hospital site. The Secretary of State considers that Option 1 is the most sustainable of the three options proposed for developing the site and therefore concludes that the development should proceed broadly in line with that option as set out in the Environmental Statement.
48. Turning to Kings Hill the Secretary of State concludes that the housing element of the proposed development would be in line with the advice in PPG3. He considers that the proposed mix of uses is appropriate in the present economic circumstances and more sustainable, due to the increased opportunities for those working at Kings Hill to also live there, than the mix of development set out in the Development Plan.
49. The Secretary of State also concludes that the Holborough Valley scheme would comply with the advice in PPG3 and would not have detrimental effect on the character and appearance of the adjoining countryside. He considers that the proposed

development would not have detrimental effect on the social infrastructure of the town of Snodland.

50. As the form of the conditions that it will be necessary to impose upon the proposed developments at Leybourne Grange and Kings Hill are, in part, dependent upon whether the Holbrough Valley scheme is given planning permission, the Secretary of State is unable, at this time, to grant them planning permission. The Secretary of State is unable to grant planning permission to these schemes until he has reached a final decision as to whether to grant permission for the Holbrough Valley scheme, which is dependent upon the receipt of a satisfactory planning obligation.

## **Formal Decision**

### Kings Hill

51. For the reasons given above the Secretary of State is minded to grant outline planning permission for an additional 92,900 sqm of class B1 business floorspace, residential development, public open space, sports leisure and recreation facilities and associated infrastructure at Kings Hill, West Malling and at Heath Farm, East Malling, Kent [ref: TM/02/03429/OAEA] subject to the following conditions if permission is granted for the Holbrough Valley scheme:

- 1) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval the last of the reserved matters to be approved, whichever is the later.
- 2) Approval of details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called the "reserved matters") shall be obtained in writing from the Local Planning Authority before the development hereby permitted is commenced.
- 3) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of twelve years from the date of this permission.
- 4) The development hereby permitted shall be carried out substantially in accordance with Drawings KH/OA/02 and KH/OA/03 (Figures 3.1 and 3.2 to the Environmental Statement dated November 2002).
- 5) Before the development commences on the site, an overall strategy for the site in line with the strategy set out in the Environmental Statement in relation to woodlands and structural landscaping, formal playing space, and strategic pedestrian, equestrian and cycle links shall be submitted to and approved by the Local Planning Authority in writing. The strategy shall include a scheme for the implementation of the structural landscaping and the pedestrian, equestrian and cycle links, which shall then be carried out in accordance with the scheme unless otherwise agreed in writing by the Local Planning Authority. Details submitted in accordance with condition 2 above shall be consistent with this approved strategy unless otherwise agreed in writing by the Local Planning Authority. The development shall thereafter be completed in accordance with the approved strategy.
- 6) No part of the development shall take place until details and samples of all external materials to be used have been submitted to and approved in writing by the Local

Planning Authority, and the development shall be carried out in accordance with the approved details.

- 7) The details for any part of the site submitted pursuant to Condition 2 shall show land reserved for parking or garaging. No building shall be occupied or use commenced until any parking or garaging relating to that building or use has been provided, surfaced and drained in accordance with the approved details. Thereafter no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any Order amending, revoking and re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to the reserved vehicle parking area.
- 8) No building shall be occupied until that part of the internal estate road system that provides access to it has been constructed in accordance with the approved plans.
- 9) No individual accesses shall be used until vision splays of 2m x 2m x 45° between the driveway and the back of the footway have been provided. The area of land within these vision splays shall be reduced in level as necessary and cleared of any obstruction exceeding a height of 0.6m above the level of the nearest part of the carriageway. The vision splays so created shall be retained at all times thereafter.
- 10) No development in any part of the site shall commence until details of a scheme for the storage and screening of refuse for individual or groups of buildings in that part have been submitted to and approved by the Local Planning Authority in writing. The development shall thereafter be carried out in accordance with the approved scheme.
- 11) No street lighting, footway or footpath or other lighting serving public areas shall be installed unless details of such lighting have first been submitted to and approved by the Local Planning Authority in writing. Any such work shall be carried out thereafter in accordance with the approved details.
- 12) Notwithstanding the provisions of the Town and Country Planning Permitted Development Order 1995 (as amended) (or any Order revoking or re-enacting that Order), no tank for the storage of oils, fuels, or chemicals shall be erected unless it is sited on an impervious base and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank, plus 10%. All filling points, vents, gauges and sight glasses must be sealed with no discharge to any watercourse, land or underground strata. Associated pipe-work should be located above ground and protected from accidental damage.
- 13) Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings (excepting the residential areas) shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.
- 14) Notwithstanding the provisions of Section 55 of the Town and Country Planning Act 1990 or the Town and Country (General Permitted Development) Order 1995 (as amended) (or any Order amending, revoking and re-enacting that Order), no additional Class B1 floorspace (in addition to that shown in the approved details) shall be provided by means of the insertion of additional floors, without the prior written permission of the Local Planning Authority.

- 15) No development shall be commenced on the site until an ecology mitigation strategy has been submitted to and approved by the Local Planning Authority in writing. The strategy shall set out method statements for protecting badgers, bats, birds, dormice and reptiles during and subsequent to development in accordance with the factors identified in the Environmental Statement. During the implementation of the approved development, the strategy shall be implemented as approved.
- 16) No development shall take place within the site until the applicant has agreed with the Local Planning Authority in writing a phased programme of archaeological work in accordance with a written scheme of investigation in line with the Environmental Statement. The applicant shall carry out the agreed archaeological work in accordance with the scheme as approved by the Local Planning Authority, and as may be varied from time to time with the approval of the Local Planning Authority in writing.
- 17) No development shall take place within any part of the site until full details of the precise routes, surfacing and construction details of any footways, cycle routes and any other permissive rights of way within that part have been submitted to and approved in writing by the Local Planning Authority. The work shall thereafter be carried out in strict accordance with those details.
- 18) No building within any part of the site hereby permitted shall be occupied until underground ducts have been installed by the developer to enable telephone, electricity, CCTV and communal television services to be connected to that building without recourse to the erection of distribution poles and overhead lines. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any order amending, revoking and re-enacting that Order), no distribution pole or overhead line shall be erected within the area except with the express, prior written consent of the Local Planning Authority.
- 19) The details submitted with each set of Reserved Matters in pursuance of condition 2 shall be accompanied by a scheme of landscaping and boundary treatment. These schemes shall include a tree survey specifying the position, height, spread and species of all trees on the relevant part of the site, and identifying those trees and shrubs to be retained. The approved schemes shall be implemented by the approved date, or such other date as may be agreed in writing by the Authority. Any trees or plants which within ten years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. All trees planted shall be protected (particularly against stock and rabbits) immediately upon planting and such protection shall be retained at all times for five years thereafter.
- 20) The development hereby approved shall be carried out in such a manner as to avoid damage to the existing trees that are intended to be retained, including their root system, or other planting to be retained as part of the landscaping scheme by observing the following:
  - (a) All trees to be retained shall be marked on site and protected during any operation on site by a fence erected at 0.5 metres beyond the canopy spread (or as otherwise agreed in writing by the Local Planning Authority).
  - (b) No fires shall be lit within the spread of the branches of such trees.

- (c) No materials or equipment shall be stored within the spread of the branches of such trees.
  - (d) Any damage to such trees shall be made good with a coating of fungicidal sealant.
  - (e) No roots over 50mm diameter shall be cut and unless expressly authorised by this permission no buildings, roads or other engineering operations shall be constructed or carried out within the spread of the branches of such trees.
  - (f) Ground levels within the spread of the branches of such trees shall not be raised or lowered in relation to the existing ground level, except as may be otherwise agreed in writing by the Local Planning Authority
- 21) The stables and other equestrian facilities proposed for Heath Farm shall not be brought into use until details of the means of disposal of manure, bedding or any other waste have been submitted to and approved by the Local Planning Authority in writing. The development shall be carried out in accordance with the approved details.
  - 22) The development of the site as a whole shall not take place at a density of less than 30 dwellings per hectare. Each submission of reserved matters for dwelling units shall include a calculation of density, including a cumulative overall density. The density of the development shall be calculated in accordance with the criteria set out in Annex C to Planning Guidance Note Number 3 (*Housing*).

## **Highway Conditions**

### **Parking**

- 23) The reserved matters referred to in condition 2 of this permission shall provide for residential car parking spaces at an average maximum standard of 1.5 off-street car parking spaces per dwelling. The dwellings hereby approved shall not be occupied until provision for parking has been made within the site in accordance with the agreed details, and such provision shall thereafter be permanently kept available for the parking of vehicles.
- 24) On-plot parking for the Kings Hill Phase 2 Class B1 employment development (92,900 sqm) hereby permitted shall not increase the total amount of such parking already constructed or which could be constructed pursuant to the previously permitted Phase 1 consent by more than 2850 spaces.
- 25) (a) No off-plot parking for Kings Hill Phase 2 Class B1 employment development will be allowed except within communal car parks in accordance with the terms of a scheme approved by the Local Planning Authority in writing, pursuant to paragraph (b) of this condition. No more than 600 communal spaces may be provided until the 1<sup>st</sup> July 2016. After the 1<sup>st</sup> July 2016 no more than 250 communal spaces may be provided or retained, provided that those spaces may only be made available to off peak users and car sharers.
- (b) No communal car park may be constructed until a scheme for the provision and control of that car park, the phased removal of any spaces in excess of 250, and the control of on-street parking has been submitted to and approved in writing by the Local Planning Authority. Any such scheme must be consistent with sub paragraph (a) of this condition.

### **Pedestrian and cycle facilities**

- 26) Cycle parking facilities in accordance with the “*Kent Vehicle Parking Standards*” shall be provided within or adjacent to each of the proposed business units. Details of these together with other staff facilities for cyclists (including showers and changing facilities) are to be submitted to and approved in writing by the Local Planning Authority prior to the occupation of individual business units and shall thereafter be retained.

#### **Tower View Roundabout**

- 27) The improvements to the Tower View Roundabout, including bus priority measures as shown on drawing No. 11444-101-105 (REV A), shall be completed within 12 months of the date upon which the A228 Leybourne-West Malling Bypass (MOR) is opened to the public or the first occupation of any part of the development whichever is the later, unless otherwise agreed in writing by the Local Planning Authority.

#### **M20 Junction 4**

- 28) (a) No development shall be commenced until the MOR has been constructed and is open to the public and the following improvements to Junction 4 of the M20 (as shown indicatively on drawing No:- TUE91005A/500/D) have been completed, namely:
- (i) Widening of the western overbridge to 4 lanes;
  - (ii) Widening of / alterations to the circulatory carriageway of the roundabout to be associated with the widening of the western overbridge and the improvement of the westbound diverge;
  - (iii) Widening of / alterations to the circulatory carriageway of the roundabout to be associated with the improvement of the eastbound merge and diverge;
  - (iv) Improvement of the westbound diverge;
  - (v) Improvement of the eastbound diverge;
  - (vi) Improvement of the eastbound merge;
  - (vii) Improvement of the westbound merge.

#### **UNLESS**

Proposals for securing the construction of the MOR and the improvements to Junction 4 in conjunction with the development of Kings Hill and the development of the other sites at Holborough Valley and Leybourne Grange have first been submitted to and approved in writing by the Local Planning Authority, in which case the development may not be commenced or occupied save in accordance with the approved proposals. The proposals submitted and approved in accordance with this condition must comply with the requirements of sub-paragraphs (b) to (e) below.

- (b) Subject to the proviso set out in sub paragraph (e) of this condition, the proposals submitted and approved pursuant to sub paragraph (a) of this condition must be consistent with ensuring that no combination of the developments at Kings Hill, Holborough Valley or Leybourne Grange can be occupied without the MOR and improvements to Junction 4 appropriate to that combination of developments (as shown on the table below) being in place and open to the public.

Scenario	Sites	MOR	Western Bridge	Circ. C/way	WB Diverge	EB Merge	EB Diverge	WB Merge
1	HV, LG & KH	X	X	X	X	X	X	X
2	HV	X	X		X			
3	LG	X	X		X			
4	HV & LG	X	X		X			
5	KH	X	X	X	X			
6	KH & HV	X	X	X	X	X	X	
7	KH & LG	X	X	X	X	X	X	

For the avoidance of doubt, and subject to the proviso set out in sub paragraph (e) of this condition, the proposals must be consistent with all the improvements to Junction 4 being carried out and open to the public before the last of the three developments is first occupied.

- (c) Subject to the proviso set out in sub paragraph (e) of this condition the proposals submitted and approved pursuant to sub paragraph (a) of this condition must in any event require that no development shall be occupied until the MOR has been constructed and is open to the public and the improvements to Junction 4 of the M20 works described in sub paragraph (a)(i), (ii), and (iv) of this condition have been completed and are open to the public.
- (d) The proposals submitted and approved may if appropriate provide for the implementation and occupation of the Kings Hill development before some or all of the improvement works specified in sub-paragraph (a)(iii), (v), (vi) and (vii) above are carried out provided the proposals are consistent with (b) above.
- (e) If the proposals submitted and approved pursuant to sub-paragraph (a) of this condition provide for the works mentioned in sub-paragraph (c) to be secured by the developers of the proposed Kings Hill development, then the proposals may if appropriate allow for a part of the proposed development which generates the traffic equivalent to no more than 15% per cent of the total traffic for the morning peak hour which is calculated to be generated by the whole development to be occupied before the Bypass and the other works are completed. Such part of the development may not be commenced until contracts are let for construction of the MOR and the other works mentioned in sub-paragraph (c) are secured by an agreement under the Highways Act 1980 s.278 or other legal agreement.

or subject to the following conditions if permission for the Holbrough Valley scheme is not granted:

*Alternative conditions if permission for Holborough Valley is not granted*

- 1) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval the last of the reserved matters to be approved, whichever is the later.
- 2) Approval of details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called the "reserved matters") shall be obtained in writing from the Local Planning Authority before the development hereby permitted is commenced.
- 3) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of twelve years from the date of this permission.
- 4) The development hereby permitted shall be carried-out substantially in accordance with Drawings KH/OA/02 and KH/OA/03 (Figures 3.1 and 3.2 to the Environmental Statement dated November 2002).
- 5) Before the development commences on the site, an overall strategy for the site in relation to woodlands and structural landscaping, formal playing space, and strategic pedestrian, equestrian and cycle links shall be submitted to and approved by the Local Planning Authority in writing. The strategy shall include a scheme for the implementation of the structural landscaping and the pedestrian, equestrian and cycle links, which shall then be carried out in accordance with the scheme unless otherwise agreed in writing by the Local Planning Authority. Details submitted in accordance with condition 2 above shall be consistent with the approved strategy unless otherwise agreed in writing by the Local Planning Authority. The development shall thereafter be completed in accordance with the approved strategy.
- 6) No part of the development shall take place until details and samples of all external materials to be used have been submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.
- 7) The details for any part of the site submitted pursuant to Condition 2 shall show land reserved for parking or garaging. No building shall be occupied or use commenced until any parking or garaging relating to that building or use has been provided, surfaced and drained in accordance with the approved details. Thereafter no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any Order amending, revoking and re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to the reserved vehicle parking area.
- 8) No building shall be occupied until that part of the internal estate road system that provides access to it has been constructed in accordance with the approved plans.
- 9) No individual accesses shall be used until vision splays of 2m x 2m x 45° between the driveway and the back of the footway have been provided. The area of land within these vision splays shall be reduced in level as necessary and cleared of any

obstruction exceeding a height of 0.6m above the level of the nearest part of the carriageway. The vision splays so created shall be retained at all times thereafter.

- 10) No development in any part of the site shall commence until details of a scheme for the storage and screening of refuse for individual or groups of buildings in that part have been submitted to and approved by the Local Planning Authority in writing. The development shall thereafter be carried out in accordance with the approved scheme.
- 11) No street lighting, footway or footpath or other lighting serving public areas shall be installed unless details of such lighting have first been submitted to and approved by the Local Planning Authority in writing. Any such work shall be carried out thereafter in accordance with the approved details.
- 12) Notwithstanding the provisions of the Town and Country Planning Permitted Development Order 1995 (as amended) (or any Order revoking or re-enacting that Order), no tank for the storage of oils, fuels, or chemicals shall be erected unless it is sited on an impervious base and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank, plus 10%. All filling points, vents, gauges and sight glasses must be sealed with no discharge to any watercourse, land or underground strata. Associated pipe-work should be located above ground and protected from accidental damage.
- 13) Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings (excepting the residential areas) shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.
- 14) Notwithstanding the provisions of Section 55 of the Town and Country Planning Act 1990 or the Town and Country (General Permitted Development) Order 1995 (as amended) (or any Order amending, revoking and re-enacting that Order), no additional Class B1 floorspace (in addition to that shown in the approved details) shall be provided by means of the insertion of additional floors, without the prior written permission of the Local Planning Authority.
- 15) No development shall be commenced on the site until an ecology mitigation strategy has been submitted to and approved by the Local Planning Authority in writing. The strategy shall set out method statements for protecting badgers, bats, birds, dormice and reptiles during and subsequent to development in accordance with the factors identified in the Environmental Statement. During the implementation of the approved development, the strategy shall be implemented as approved.
- 16) No development shall take place within the site until the applicant has agreed with the Local Planning Authority in writing a phased programme of archaeological work in accordance with a written scheme of investigation. The applicant shall carry out the agreed archaeological work in accordance with the scheme as approved by the Local Planning Authority, and as may be varied from time to time with the approval of the Local Planning Authority in writing.
- 17) No development shall take place within any part of the site until full details of the precise routes, surfacing and construction details of any footways, cycle routes and any other permissive rights of way within that part have been submitted to and approved in writing by the Local Planning Authority. The work shall thereafter be carried out in strict accordance with those details.

- 18) No building within any part of the site hereby permitted shall be occupied until underground ducts have been installed by the developer to enable telephone, electricity, CCTV and communal television services to be connected to that building without recourse to the erection of distribution poles and overhead lines. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any order amending, revoking and re-enacting that Order), no distribution pole or overhead line shall be erected within the area except with the express, prior written consent of the Local Planning Authority.
- 19) The details submitted with each set of Reserved Matters in pursuance of condition 2 shall be accompanied by a scheme of landscaping and boundary treatment. These schemes shall include a tree survey specifying the position, height, spread and species of all trees on the relevant part of the site, and identifying those trees and shrubs to be retained. The approved schemes shall be implemented by the approved date, or such other date as may be agreed in writing by the Authority. Any trees or plants which within ten years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. All trees planted shall be protected (particularly against stock and rabbits) immediately upon planting and such protection shall be retained at all times for five years thereafter.
- 20) The development hereby approved shall be carried out in such a manner as to avoid damage to the existing trees that are intended to be retained, including their root system, or other planting to be retained as part of the landscaping scheme by observing the following:
  - (g) All trees to be retained shall be marked on site and protected during any operation on site by a fence erected at 0.5 metres beyond the canopy spread (or as otherwise agreed in writing by the Local Planning Authority).
  - (h) No fires shall be lit within the spread of the branches of such trees.
  - (i) No materials or equipment shall be stored within the spread of the branches of such trees.
  - (j) Any damage to such trees shall be made good with a coating of fungicidal sealant.
  - (k) No roots over 50mm diameter shall be cut and unless expressly authorised by this permission no buildings, roads or other engineering operations shall be constructed or carried out within the spread of the branches of such trees.
  - (l) Ground levels within the spread of the branches of such trees shall not be raised or lowered in relation to the existing ground level, except as may be otherwise agreed in writing by the Local Planning Authority
- 21) The stables and other equestrian facilities proposed for Heath Farm shall not be brought into use until details of the means of disposal of manure, bedding or any other waste have been submitted to and approved by the Local Planning Authority in writing. The development shall be carried out in accordance with the approved details.
- 22) The development of the site as a whole shall not take place at a density of less than 30 dwellings per hectare. Each submission of reserved matters for dwelling units shall include a calculation of density, including a cumulative overall density. The

density of the development shall be calculated in accordance with the criteria set out in Annex C to Planning Guidance Note Number 3 (*Housing*).

## **Highway Conditions**

### **Parking**

- 23) The reserved matters referred to in condition 2 of this permission shall provide for residential car parking spaces at an average maximum standard of 1.5 off-street car parking spaces per dwelling. The dwellings hereby approved shall not be occupied until provision for parking has been made within the site in accordance with the agreed details, and such provision shall thereafter be permanently kept available for the parking of vehicles.
- 24) On-plot parking for the Kings Hill Phase 2 Class B1 employment development (92,900 sqm) hereby permitted shall not increase the total amount of such parking already constructed or which could be constructed pursuant to the previously permitted Phase 1 consent by more than 2850 spaces.
- 25)
  - (a) No off-plot parking for Kings Hill Phase 2 Class B1 employment development will be allowed except within communal car parks in accordance with the terms of a scheme approved by the Local Planning Authority in writing, pursuant to paragraph (b) of this condition. No more than 600 communal spaces may be provided until the 1<sup>st</sup> July 2016. After the 1<sup>st</sup> July 2016 no more than 250 communal spaces may be provided or retained, provided that those spaces may only be made available to off peak users and car sharers.
  - (b) No communal car park may be constructed until a scheme for the provision and control of that car park, the phased removal of any spaces in excess of 250, and the control of on-street parking has been submitted to and approved in writing by the Local Planning Authority. Any such scheme must be consistent with sub paragraph (a) of this condition.

### **Pedestrian and cycle facilities**

- 26) Cycle parking facilities in accordance with the "*Kent Vehicle Parking Standards*" shall be provided within or adjacent to each of the proposed business units. Details of these together with other staff facilities for cyclists (including showers and changing facilities) are to be submitted to and approved in writing by the Local Planning Authority prior to the occupation of individual business units and shall thereafter be retained.

### **Tower View Roundabout**

- 27) The improvements to the Tower View Roundabout, including bus priority measures as shown on drawing No. 11444-101-105 (REV A), shall be completed within 12 months of the date upon which the A228 Leybourne-West Malling Bypass (MOR) is opened to the public or the first occupation of any part of the development whichever is the later, unless otherwise agreed in writing by the Local Planning Authority.

### **M20 Junction 4**

- 28)
  - (a) No development shall be commenced until the A228 Leybourne-West Malling Bypass ("the Bypass") has been constructed and is open to the public and the improvements to Junction 4 of the M20, namely:

- (i) Widening of the western bridge to 4 lanes;
- (ii) Widening of / alterations to the circulatory carriageway of the roundabout to be associated with the widening of the western bridge and the improvement of the westbound diverge;
- (iii) Widening of / alterations to the circulatory carriageway of the roundabout to be associated with the improvement of the eastbound merge and diverge;
- (iv) Improvement of the westbound diverge;
- (v) Improvement of the eastbound diverge;
- (vi) Improvement of the eastbound merge;

(forming part of the works shown indicatively on Plan No. TUE91005A/500/D) have been carried out and are open to the public,

**UNLESS**

proposals for securing the delivery of the Bypass and the improvements to Junction 4 have first been submitted to and approved in writing by the local planning authority (in consultation with the Highways Agency and Kent County Council), in which case the development may not be commenced or occupied save in accordance with the approved proposals. The proposals submitted and approved in accordance with this condition must comply with the requirements of sub-paragraphs (b) to (e) below.

- (b) Subject to the proviso set out in sub paragraph (e) of this condition the proposals submitted and approved pursuant to sub paragraph (a) of this condition must be consistent with ensuring that development of Kings Hill and Leybourne Grange together cannot be occupied without the Bypass and improvements to Junction 4 appropriate to that combination of developments (as shown on the table in below) being in place and open to the public.

Scenario	Sites	MOR	Western Bridge	Circ C/way	WB Diverge	EB Merge	EB Diverge	WB Merge
1	HV, LG & KH	X	X	X	X	X	X	X
2	HV	X	X		X			
3	LG	X	X		X			
4	HV & LG	X	X		X			
5	KH	X	X	X	X			
6	KH & HV	X	X	X	X	X	X	
7	KH & LG	X	X	X	X	X	X	

For the avoidance of doubt and subject to the proviso set out in sub paragraph (e) of this condition the proposals must be consistent with all the improvements to Junction 4 listed in sub paragraph (a) of this condition being carried out and open to the public before the last of the two developments is first occupied.

- (c) Subject to the proviso set out in sub paragraph (e) of this condition the proposals submitted and approved pursuant to sub paragraph (a) of this condition must in any event require that no development shall be occupied until the Bypass has been constructed and is open to the public and the improvements to Junction 4 of the M20 works described in sub paragraph (a) (i),(ii), and (iv) of this condition have been completed and are open to the public.
- (d) The proposals submitted and approved may if appropriate provide for the implementation and occupation of the development before some or all of the improvement works specified in sub paragraph (a) (iii), (v) and (vi) above are carried out provided the proposals are consistent with (b) above.
- (e) If the proposals submitted and approved pursuant to sub-paragraph (a) of this condition provide for the improvement works mentioned in sub-paragraph (c) to be secured by the developers of the proposed Kings Hill development, then the proposals may if appropriate allow for a part of the proposed development which generates the traffic equivalent to no more than 15% per cent of the total traffic for the morning peak hour which is calculated to be generated by the whole development to be occupied before the Bypass and the other works are completed. Such part of the development may not be commenced until contracts are let for construction of the Bypass and the other works mentioned in sub-paragraph (c) are secured by an agreement under the Highways Act 1980 s.278 or other legal agreement.

### Leybourne Grange

52. For the reasons given above the Secretary of State is minded to allow the appeal by South Thames Regional Health Authority and grant outline planning permission for the demolition of the existing hospital and residential development of up to 702 dwellings, together with access roads, community hall shop, primary school site and lay-by [ref: TM/94/1253/O/A] subject to the following conditions if the Holborough Valley scheme is granted planning permission:

- 1) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval the last of the reserved matters to be approved, whichever is the later.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of eight years from the date of this permission.
- 3) Approval of details of the siting, design and external appearance of the buildings, and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority.

- 4) The development hereby permitted shall be carried-out substantially in accordance with the layout and other details shown on drawing nos: 1865/AX30/1 – 1865/AX30/7 in the Environmental Statement, as 'Option 1' in the description of the development supplied by the appellants.
- 5) Before any development commences on the application site, a scheme for the phasing of the development of the entire site shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall include proposals for the provision of:
  - The community and retail facilities;
  - The Reservation of a Primary School site of 1.2 hectares;
  - The Reservation of a site of 0.2ha – 0.3ha for Primary Care medical facilities;
  - The structural landscaping, incidental recreational space and the provision of the acoustic bund;
  - Pedestrian, footpath and cycle links.

The development shall thereafter be undertaken in accordance with those details, as approved.

- 6) No more than 300 dwellings within the development hereby permitted shall be occupied until the conversion of the listed buildings at Leybourne Grange has been completed in accordance with the terms of the planning permission and listed building consent granted by the First Secretary of State under reference numbers APP/H2265/A/03/1126607 and GOSE/103/004/TON (or any alternative planning permission and listed building consent as may subsequently be granted for the residential conversion of these buildings by the Local Planning Authority).
- 7) No development shall take place until details and samples of all materials to be used externally have been submitted to and approved by the Local Planning Authority in respect of the appropriate submission of reserved matters of buildings, and the development shall be carried out in accordance with the approved details.
- 8) The details submitted in pursuance of condition 1 of this permission shall be accompanied by a scheme of landscaping and boundary treatment (including proposals for the school reservation site) which shall include:
  - provision for the retention and protection of existing trees and shrubs that it is intended to retain; and,
  - detailed specifications, of and a date for completion of, any new planting and boundary treatment and the protection for trees and shrubs to be retained;
  - the provision an acoustic bund/earth mound along the northern boundary of the site abutting the public footpath adjacent to the alignment of the M20.

The development shall thereafter be undertaken in accordance with those details, as approved.

- 9) Notwithstanding the terms of condition (8) of this permission, the details submitted pursuant to Condition 1 of this permission in respect of any dwellings sited in Area

10 shall be accompanied by details of the acoustic bund/earth mound, including structural design and landscaping thereof, to be provided on the northern boundary of the site. No dwellings in Area 10 shall be occupied until the completion (other than soft landscaping) of the acoustic bund in strict accordance with the approved details and the bund shall be thereafter retained.

- 10) The scheme of landscaping and boundary treatment as approved by the Authority shall be implemented by the dates specified therein. Any trees or shrubs plants which within ten years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Authority gives written consent to any variation.
- 11) Development shall not begin until an ecology mitigation strategy has been submitted to and approved by the Local Planning Authority. The strategy shall set out method statements for protecting:
  - Badgers
  - Bats including replacement bat roosts
  - Birds
  - Dormice
  - Water Voles and
  - Reptiles,

during and subsequent to development in accordance with the factors identified in the Environmental Statement. Upon approval, the strategy shall be implemented as approved.

- 12) The detailed plans referred to in condition 1 of this permission shall provide for car parking at an average maximum standard of 1.5 off-street car parking spaces per dwelling. The development shall thereafter be undertaken in accordance with those details, as approved. The dwellings hereby approved shall not be occupied until provision for parking has been made within the site in accordance with the agreed details, and such provision shall thereafter be permanently kept available for the parking of vehicles.
- 13) No development shall take place within the area of land (to be identified in consultation with the Local Planning Authority) as the probable extent of Iron Age-Roman activity until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.

On the remainder of the site the developer shall afford access at all reasonable times to any archaeologist nominated by the Local Planning Authority and shall allow him/her to observe the excavation and record items of interest and finds.

The developer will inform the Local Planning Authority in writing of the start date of construction works on site not less than two weeks before the commencement of such works.

- 14) The first submission of details submitted pursuant to condition 1 shall include details of the alignment, design, construction, drainage, landscaping, signage and lighting of the access route from the A20 London Road and the crossing of footpath

MR154A. The development shall thereafter be undertaken in accordance with those details, as approved.

- 15) Development shall not begin until drainage works have been carried out in accordance with written details to be submitted to and approved by the Local Planning Authority. The development shall thereafter be undertaken in accordance with those details, as approved.
- 16) Any above ground oil/chemical storage tank/container and associated pipework shall be sited and bunded in a manner so as to retain any spillage.
- 17) At the time of submission of details pursuant to Condition 1 of this permission, details shall be provided of the method and phasing of any demolition of buildings within the land parcel concerned. The development shall thereafter be undertaken in accordance with those details, as approved.
- 18) None of the buildings hereby permitted shall be occupied until underground ducts have been installed by the developer to enable telephone, electricity, CCTV and communal television services to be connected to any premises within the site without recourse to the erection of distribution poles and overhead lines and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any Order amending, revoking and re-enacting that Order), no distribution pole or overhead line shall be erected within the area except with the express written consent of the Local Planning Authority.
- 19) Individual buildings shall not be occupied until vision splays of 2.0m x 2.0m x 45° between the driveway and the back of the footway have been provided. The area of land within these vision splays shall be reduced in level as necessary and cleared of any obstruction exceeding a height of 0.6m above the level of the nearest part of the carriageway. The vision splays so created shall be retained at all times thereafter.
- 20) The existing trees and shrubs shown on any approved landscape plan, other than any specifically shown to be removed, shall not be lopped, topped, felled, uprooted or wilfully destroyed without the prior written consent of the Local Planning Authority, and any planting removed with or without such consent shall be replaced within 12 months with suitable stock, adequately staked and tied, and shall thereafter be maintained for a period of ten years. No existing trees shall be removed prior to the approval of a landscaping scheme covering the area occupied by existing trees, except where the tree is dead, dying, diseased or dangerous in which case the Local Planning Authority shall be notified 14 days in advance of the works and full details of replacement trees shall be submitted to the Local Planning Authority for approval. Upon approval, the replacement tree(s) shall be planted in the first available planting season and shall be subject to the replanting provision of Condition 10 above. All trees planted shall be protected (particularly against stock and rabbits) immediately upon planting and such protection shall be retained at all times for five years thereafter.
- 21) No development shall commence until details of a scheme for the storage and screening of refuse for individual or groups of dwellings has been submitted to and approved by the Local Planning Authority in writing. The approved scheme shall be implemented before the development is occupied and shall be retained at all times thereafter.

- 22) No development shall take place until details of noise mitigation measures have been submitted to and approved by the Local Planning Authority in writing. The details submitted shall:-
- (a) specify the measures (including siting, screening, orientation/aspect, building height) to be used to ensure that no facades of new buildings containing windows to habitable rooms will be exposed to a predicted level of road traffic noise (assessed on levels expected in the year 2018) in Noise Exposure Categories C or D of the Tonbridge and Malling Local Plan Policy P3/17. The approved measures shall be implemented prior to the first occupation of any dwelling to which they relate and shall be retained at all times thereafter.
- (b) include a scheme of acoustic protection of:-
- habitable rooms having windows that will be exposed to a level of road traffic noise (assessed on levels expected in the year 2018) in Noise Exposure Category B of the Tonbridge and Malling Local Plan Policy P3/17;
- habitable rooms in The Limes, The Chequers, The Holmes, The Firs having windows that will be exposed to a level of road traffic noise (assessed on levels expected in the year 2018) in Noise Exposure Category B or C of the Tonbridge and Malling Local Plan Policy P3/17.
- The scheme shall be sufficient to secure internal noise levels no greater than 30  $L_{Aeq}$  dB in bedrooms and 40  $L_{Aeq}$  dB in living rooms with windows closed. Additionally, where the internal noise levels will exceed 40  $L_{Aeq}$  dB in bedrooms or 48  $L_{Aeq}$  dB in living rooms with windows open the scheme of acoustic protection shall incorporate appropriate acoustically screened mechanical ventilation. Mechanical ventilation shall also be provided to bedrooms having openings into facades that will be exposed to a level of road traffic noise in excess of 78  $L_{Amax}$  (slow) time weighting. The approved scheme shall be implemented prior to the first occupation of the dwelling to which it relates and shall be retained at all times thereafter.
- 23) Prior to the provision of the new community hall an acoustic appraisal to evaluate the aural impact of noise emissions attributable to its use on nearby dwellings is to be submitted to and approved by the Local Planning Authority in writing. Any measures shown to be necessary to safeguard the aural amenity of nearby residents are to be fully implemented prior to the first use of the community hall and retained at all times thereafter.
- 24) The development of the site as a whole shall not take place at a density of less than 30 dwellings per hectare. Each submission of reserved matters for dwelling units shall include a calculation of density, including a cumulative overall density. The density shall be calculated in accordance with the criteria set out in Annex C to Planning Policy Guidance Note Number 3 (*Housing*).
- 25) No development shall be commenced until:
- (a) a site investigation has been undertaken to determine the nature and extent of any contamination, and
- (b) the results of the investigation, together with an assessment by a competent person and details of a scheme to contain, treat or remove any contamination, as appropriate, have been submitted to and approved by the Local Planning Authority in writing. The assessment and scheme shall have

regard to the need to ensure that contaminants do not escape from the site to cause air and water pollution or pollution of adjoining land.

The scheme submitted pursuant to (b) shall include details of arrangements for responding to any discovery of unforeseen contamination during the undertaking of the development hereby permitted. Such arrangements shall include a requirement to notify the Local Planning Authority in writing of the presence of any such unforeseen contamination.

Prior to the first occupation of the development or any part of the development hereby permitted.

- (c) the approved remediation scheme shall be fully implemented insofar as it relates to that part of the development which is to be occupied, and
  - (d) a Certificate shall be provided to the Local Planning Authority by a responsible person stating that remediation has been completed and the site is suitable for the permitted end use. Thereafter, no works shall take place within the site such as to prejudice the effectiveness of the approved scheme of remediation.
- 26) No street lighting, footway or footpath or other external lighting serving any public areas shall be installed unless details of such lighting have first been submitted to and approved by the Local Planning Authority in writing in consultation with the highway authority. Any such work shall be carried out in strict accordance with those details.
- 27) Development shall not begin until a scheme has been submitted to and approved in writing by the Local Planning Authority in respect of:
- children's play space at 15m<sup>2</sup> per dwelling; and
  - formal playing space provision scheme at 45m<sup>2</sup> per dwelling (to include associated changing rooms/pavilion facilities and parking).
  - For the purposes of this condition such a scheme is one which:
    - (a) ensures the provision of the necessary land and physical facilities;
    - (b) secures the safe implementation of the works and ensures that they are made available to the public before the occupation of any dwelling on the site; and
    - (c) identifies arrangements, including financial arrangements, for long term maintenance, inspection and insurance of the facilities such that they are available to the public in perpetuity.
- 28) Development shall not begin until a scheme aimed at the provision of appropriate community, health and retail facilities has been submitted to and approved in writing by the Local Planning Authority; for the purposes of this condition such a scheme is one which ensures the provision of community hall facilities
- (a) secures the safe implementation of the works; and
  - (b) ensures that they are made available to the public before the occupation of any dwelling on the site; and

- (c) identifies arrangements, including financial arrangements where appropriate, for long term maintenance, inspection and insurance of the facilities such that they are available to the public in perpetuity.
- 29) No development shall take place until full details of the precise routes, surfacing and construction details of any footways, cycle routes and any other permissive rights of way have been submitted to and approved by the Local Planning Authority in writing. The work shall be carried out thereafter in strict accordance with those details.
  - 30) The development hereby approved shall be carried out in such a manner as to avoid damage to the existing trees, including their root system, or other planting to be retained as part of the landscaping scheme by observing the following:
    - (a) All trees to be preserved shall be marked on site and protected during any operation on site by a fence erected at 0.5 metres beyond the canopy spread (or as otherwise agreed in writing by the Local Planning Authority).
    - (b) No fires shall be lit within the spread of the branches of the trees.
    - (c) No materials or equipment shall be stored within the spread of the branches of the trees.
    - (d) Any damage to trees shall be made good with a coating of fungicidal sealant.
    - (e) No roots over 50mm diameter shall be cut and unless expressly authorised by this permission no buildings, roads or other engineering operations shall be constructed or carried out within the spread of the branches of the trees.
    - (f) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level, except as may be otherwise agreed in writing by the Local Planning Authority.
  - 31) No development shall take place until details of plans for surface water drainage have been first submitted and approved in writing by the Local Planning Authority. The approved details shall be implemented in their entirety.
  - 32) Before any dwelling is occupied, there shall be constructed a margin, adequate to ensure the maintenance and repair of the earth mound, between the boundary fence and toe of the proposed acoustic bund/earth mound in accordance with details which have been first submitted to and agreed in writing by the Local Planning Authority.
  - 33) No earthworks shall take place within twenty metres of the motorway (M20) unless the layout design and method of construction are first agreed with the Local Planning Authority in writing.
  - 34) The completed layout of the site shall be designed and constructed so that the beams from the headlights of vehicles using the site shall not cause a hazard or distraction to motorway users on the M20. This shall be achieved either in accordance with the details approved in relation to the other conditions in this permission or in accordance with any additional measures necessary to satisfy this condition, to be approved by the Local Planning Authority in writing.
  - 35) (a) No development shall be commenced until the A228 Leybourne-West Malling Bypass ("the MOR") has been constructed and is open to the public and the improvements to Junction 4 of the M20, namely:

- (i) Widening of the western overbridge to 4 lanes;
- (ii) Widening of / alterations to the circulatory carriageway of the roundabout to be associated with the widening of the western overbridge and the improvement of the westbound diverge;
- (iii) Widening of / alterations to the circulatory carriageway of the roundabout to be associated with the improvement of the eastbound merge and diverge;
- (iv) Improvement of the westbound diverge;
- (v) Improvement of the eastbound diverge;
- (vi) Improvement of the eastbound merge;
- (vii) Improvement of the westbound merge

(as shown indicatively on Plan No. TUE91005A/500/D) have been carried out and are open to the public,

UNLESS proposals for securing the construction of the MOR and the improvements to Junction 4 in conjunction with the development of Leybourne Grange and the development of the other sites at Kings Hill and Holborough Valley have first been submitted to and approved in writing by the Local Planning Authority (in consultation with the Highways Agency and Kent County Council), in which case the development may not be commenced or occupied save in accordance with the approved proposals. The proposals submitted and approved in accordance with this condition must comply with the requirements of sub-paragraphs (b) to (e) below.

- (b) Subject to the proviso set out in sub paragraph (e) of this condition the proposals submitted and approved pursuant to sub paragraph (a) of this condition must be consistent with ensuring that no combination of the developments at Kings Hill, Holborough Valley or Leybourne Grange can be occupied without the MOR and improvements to Junction 4 appropriate to that combination of developments (as shown on the table below) being in place and open to the public.

Scenario	Sites	MOR	Western Bridge	Circ C/way	WB Diverge	EB Merge	EB Diverge	WB Merge
1	HV, LG & KH	X	X	X	X	X	X	X
2	HV	X	X		X			
3	LG	X	X		X			
4	HV & LG	X	X		X			
5	KH	X	X	X	X			
6	KH & HV	X	X	X	X	X	X	
7	KH & LG	X	X	X	X	X	X	

For the avoidance of doubt and subject to the proviso set out in sub paragraph (e) of this condition the proposals must be consistent with all the improvements to Junction 4 being carried out and open to the public before the last of the three developments is first occupied.

- (c) Subject to the proviso set out in sub paragraph (e) of this condition the proposals submitted and approved pursuant to sub paragraph (a) of this condition must in any event require that no development shall be occupied until the Bypass has been constructed and is open to the public and the improvements to Junction 4 of the M20 works described in sub paragraph (a) (i) and (iv) of this condition have been completed and are open to the public.
- (d) The proposals submitted and approved may if appropriate provide for the implementation and occupation of the Leybourne Grange development before some or all of the improvement works specified in sub-paragraph (a)(ii),(iii),(v),(vi) and (vii) above are carried out provided the proposals are consistent with (b) above.
- (e) If the proposals submitted and approved pursuant to sub-paragraph (a) of this condition provide for the Bypass and for the works mentioned in sub-paragraph (c) to be secured by the developers of the proposed Leybourne Grange development, then the proposals may if appropriate allow for a part of the proposed development (“the Enabling Part”) to be occupied before the works mentioned in sub-paragraph (c) are completed,

#### **PROVIDED THAT**

- (i) The said proposals shall ensure that no greater part of the proposed development shall be constructed as the Enabling Part than that which would generate traffic which (either alone or together with the traffic generated by any other development in respect of which the developer or developers have entered or are anticipated in the said proposals to enter an agreement to secure the construction of the Bypass and/or the other works mentioned in sub-paragraph (a)) would add more than 240 vehicles per hour to the total morning peak traffic anticipated to use Junction 4 of the M20; and
  - (ii) the Enabling Part shall not be commenced until contracts are let for the construction of the Bypass and the other works mentioned in sub-paragraph (c) are secured by an agreement under the Highways Act 1980 s.278 or other legal agreement.
- 36) Prior to the occupation of any dwelling, a new access road shall be constructed to base course linking the Development to the A20 as shown on Boreham Consulting Engineers’ drawings number 200132/4A and 200132/5A, unless otherwise agreed in writing by the Local Planning Authority.
- 37) Prior to the occupation of any dwelling a new roundabout shall be constructed at the junction of the access road to the Development and A20 as shown on Boreham Consulting Engineers’ drawing number 200132/3A, unless otherwise agreed in writing by the Local Planning Authority.
- 38) Access to any dwelling from Birling Road or Park Road shall not be permitted until the 401<sup>st</sup> dwelling has been occupied. Public service vehicles excluded

- 39) Prior to the occupation of any dwelling accessed from Birling Road or Park Road or the Leybourne and West Malling Bypass (the MOR), a new shared pedestrian/cycleway shall be constructed along the northern side of Park Road as shown on Boreham Consulting Engineers' drawing number 200132/6A.
- 40) No construction vehicles from the Development shall use Birling Road or Park Road or the Castle Way/Park Road junction unless otherwise agreed in writing with the Local Planning Authority.

or subject to the following conditions if planning permission is not granted for the Holborough Valley scheme:

*Conditions if permission for the Holborough Valley scheme is not granted*

- 1) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval the last of the reserved matters to be approved, whichever is the later.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of eight years from the date of this permission.
- 3) Approval of details of the siting, design and external appearance of the buildings, and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority.
- 4) The development hereby permitted shall be carried-out substantially in accordance with the layout and other details shown on drawing nos: 1865/AX30/1 – 1865/AX30/7 in the Environmental Statement, as 'Option 1' in the description of the development supplied by the appellants.
- 5) Before any development commences on the application site, a scheme for the phasing of the development of the entire site shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall include proposals for the provision of:
  - The community and retail facilities;
  - The Reservation of a Primary School site of 1.2 hectares;
  - The Reservation of a site of 0.2ha – 0.3ha for Primary Care medical facilities;
  - The structural landscaping, incidental recreational space and the provision of the acoustic bund;
  - Pedestrian, footpath and cycle links.

The development shall thereafter be undertaken in accordance with those details, as approved.

- 6) No more than 300 dwellings within the development hereby permitted shall be occupied until the conversion of the listed buildings at Leybourne Grange has been completed in accordance with the terms of the planning permission and listed building consent granted by the First Secretary of State under reference numbers APP/H2265/A/03/1126607 and GOSE/103/004/TON (or any alternative planning

permission and listed building consent as may subsequently be granted for the residential conversion of these buildings by the Local Planning Authority).

- 7) No development shall take place until details and samples of all materials to be used externally have been submitted to and approved by the Local Planning Authority in respect of the appropriate submission of reserved matters of buildings, and the development shall be carried out in accordance with the approved details.
- 8) The details submitted in pursuance of condition 1 of this permission shall be accompanied by a scheme of landscaping and boundary treatment (including proposals for the school reservation site) which shall include:
  - provision for the retention and protection of existing trees and shrubs that it is intended to retain; and,
  - detailed specifications, of and a date for completion of, any new planting and boundary treatment and the protection for trees and shrubs to be retained;
  - the provision an acoustic bund/earth mound along the northern boundary of the site abutting the public footpath adjacent to the alignment of the M20.

The development shall thereafter be undertaken in accordance with those details, as approved.

- 9) Notwithstanding the terms of condition (8) of this permission, the details submitted pursuant to Condition 1 of this permission in respect of any dwellings sited in Area 10 shall be accompanied by details of the acoustic bund/earth mound, including structural design and landscaping thereof, to be provided on the northern boundary of the site. No dwellings in Area 10 shall be occupied until the completion (other than soft landscaping) of the acoustic bund in strict accordance with the approved details and the bund shall be thereafter retained.
- 10) The scheme of landscaping and boundary treatment as approved by the Authority shall be implemented by the dates specified therein. Any trees or shrubs plants which within ten years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Authority gives written consent to any variation.
- 11) Development shall not begin until an ecology mitigation strategy has been submitted to and approved by the Local Planning Authority. The strategy shall set out method statements for protecting:
  - Badgers
  - Bats including replacement bat roosts
  - Birds
  - Dormice
  - Water Voles and
  - Reptiles,

during and subsequent to development in accordance with the factors identified in the Environmental Statement. Upon approval, the strategy shall be implemented as approved.

- 12) The detailed plans referred to in condition 1 of this permission shall provide for car parking at an average maximum standard of 1.5 off-street car parking spaces per dwelling. The development shall thereafter be undertaken in accordance with those details, as approved. The dwellings hereby approved shall not be occupied until provision for parking has been made within the site in accordance with the agreed details, and such provision shall thereafter be permanently kept available for the parking of vehicles.
- 13) No development shall take place within the area of land (to be identified in consultation with the Local Planning Authority) as the probable extent of Iron Age-Roman activity until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.

On the remainder of the site the developer shall afford access at all reasonable times to any archaeologist nominated by the Local Planning Authority and shall allow him/her to observe the excavation and record items of interest and finds.

The developer will inform the Local Planning Authority in writing of the start date of construction works on site not less than two weeks before the commencement of such works.

- 14) The first submission of details submitted pursuant to condition 1 shall include details of the alignment, design, construction, drainage, landscaping, signage and lighting of the access route from the A20 London Road and the crossing of footpath MR154A. The development shall thereafter be undertaken in accordance with those details, as approved.
- 15) Development shall not begin until drainage works have been carried out in accordance with written details to be submitted to and approved by the Local Planning Authority. The development shall thereafter be undertaken in accordance with those details, as approved.
- 16) Any above ground oil/chemical storage tank/container and associated pipework shall be sited and bunded in a manner so as to retain any spillage.
- 17) At the time of submission of details pursuant to Condition 1 of this permission, details shall be provided of the method and phasing of any demolition of buildings within the land parcel concerned. The development shall thereafter be undertaken in accordance with those details, as approved.
- 18) None of the buildings hereby permitted shall be occupied until underground ducts have been installed by the developer to enable telephone, electricity, CCTV and communal television services to be connected to any premises within the site without recourse to the erection of distribution poles and overhead lines and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any Order amending, revoking and re-enacting that Order), no distribution pole or overhead line shall be erected within the area except with the express written consent of the Local Planning Authority.
- 19) Individual buildings shall not be occupied until vision splays of 2.0m x 2.0m x 45° between the driveway and the back of the footway have been provided. The area

of land within these vision splays shall be reduced in level as necessary and cleared of any obstruction exceeding a height of 0.6m above the level of the nearest part of the carriageway. The vision splays so created shall be retained at all times thereafter.

- 20) The existing trees and shrubs shown on any approved landscape plan, other than any specifically shown to be removed, shall not be lopped, topped, felled, uprooted or wilfully destroyed without the prior written consent of the Local Planning Authority, and any planting removed with or without such consent shall be replaced within 12 months with suitable stock, adequately staked and tied, and shall thereafter be maintained for a period of ten years. No existing trees shall be removed prior to the approval of a landscaping scheme covering the area occupied by existing trees, except where the tree is dead, dying, diseased or dangerous in which case the Local Planning Authority shall be notified 14 days in advance of the works and full details of replacement trees shall be submitted to the Local Planning Authority for approval. Upon approval, the replacement tree(s) shall be planted in the first available planting season and shall be subject to the replanting provision of Condition 10 above. All trees planted shall be protected (particularly against stock and rabbits) immediately upon planting and such protection shall be retained at all times for five years thereafter.
- 21) No development shall commence until details of a scheme for the storage and screening of refuse for individual or groups of dwellings has been submitted to and approved by the Local Planning Authority in writing. The approved scheme shall be implemented before the development is occupied and shall be retained at all times thereafter.
- 22) No development shall take place until details of noise mitigation measures have been submitted to and approved by the Local Planning Authority in writing. The details submitted shall:-
- (c) specify the measures (including siting, screening, orientation/aspect, building height) to be used to ensure that no facades of new buildings containing windows to habitable rooms will be exposed to a predicted level of road traffic noise (assessed on levels expected in the year 2018) in Noise Exposure Categories C or D of the Tonbridge and Malling Local Plan Policy P3/17. The approved measures shall be implemented prior to the first occupation of any dwelling to which they relate and shall be retained at all times thereafter.
- (d) include a scheme of acoustic protection of:-
- habitable rooms having windows that will be exposed to a level of road traffic noise (assessed on levels expected in the year 2018) in Noise Exposure Category B of the Tonbridge and Malling Local Plan Policy P3/17;
- habitable rooms in The Limes, The Chequers, The Holmes, The Firs having windows that will be exposed to a level of road traffic noise (assessed on levels expected in the year 2018) in Noise Exposure Category B or C of the Tonbridge and Malling Local Plan Policy P3/17.
- The scheme shall be sufficient to secure internal noise levels no greater than 30  $L_{Aeq}$  dB in bedrooms and 40  $L_{Aeq}$  dB in living rooms with windows closed. Additionally, where the internal noise levels will exceed 40  $L_{Aeq}$  dB in bedrooms or 48  $L_{Aeq}$  dB in living rooms with windows open the scheme of acoustic protection shall incorporate appropriate acoustically screened mechanical ventilation. Mechanical ventilation shall also be provided to

bedrooms having openings into facades that will be exposed to a level of road traffic noise in excess of 78 L<sub>Amax</sub> (slow) time weighting. The approved scheme shall be implemented prior to the first occupation of the dwelling to which it relates and shall be retained at all times thereafter.

- 23) Prior to the provision of the new community hall an acoustic appraisal to evaluate the aural impact of noise emissions attributable to its use on nearby dwellings is to be submitted to and approved by the Local Planning Authority in writing. Any measures shown to be necessary to safeguard the aural amenity of nearby residents are to be fully implemented prior to the first use of the community hall and retained at all times thereafter.
- 24) The development of the site as a whole shall not take place at a density of less than 30 dwellings per hectare. Each submission of reserved matters for dwelling units shall include a calculation of density, including a cumulative overall density. The density shall be calculated in accordance with the criteria set out in Annex C to Planning Policy Guidance Note Number 3 (*Housing*).
- 25) No development shall be commenced until:
  - (a) a site investigation has been undertaken to determine the nature and extent of any contamination, and
  - (b) the results of the investigation, together with an assessment by a competent person and details of a scheme to contain, treat or remove any contamination, as appropriate, have been submitted to and approved by the Local Planning Authority in writing. The assessment and scheme shall have regard to the need to ensure that contaminants do not escape from the site to cause air and water pollution or pollution of adjoining land.

The scheme submitted pursuant to (b) shall include details of arrangements for responding to any discovery of unforeseen contamination during the undertaking of the development hereby permitted. Such arrangements shall include a requirement to notify the Local Planning Authority in writing of the presence of any such unforeseen contamination.

Prior to the first occupation of the development or any part of the development hereby permitted.
- (c) the approved remediation scheme shall be fully implemented insofar as it relates to that part of the development which is to be occupied, and
- (d) a Certificate shall be provided to the Local Planning Authority by a responsible person stating that remediation has been completed and the site is suitable for the permitted end use. Thereafter, no works shall take place within the site such as to prejudice the effectiveness of the approved scheme of remediation.
- 26) No street lighting, footway or footpath or other external lighting serving any public areas shall be installed unless details of such lighting have first been submitted to and approved by the Local Planning Authority in writing in consultation with the highway authority. Any such work shall be carried out in strict accordance with those details.
- 27) Development shall not begin until a scheme has been submitted to and approved in writing by the Local Planning Authority in respect of:

- children's play space at 15m<sup>2</sup> per dwelling; and
- formal playing space provision scheme at 45m<sup>2</sup> per dwelling (to include associated changing rooms/pavilion facilities and parking).
- For the purposes of this condition such a scheme is one which:

- (d) ensures the provision of the necessary land and physical facilities;
  - (e) secures the safe implementation of the works and ensures that they are made available to the public before the occupation of any dwelling on the site; and
  - (f) identifies arrangements, including financial arrangements, for long term maintenance, inspection and insurance of the facilities such that they are available to the public in perpetuity.
- 28) Development shall not begin until a scheme aimed at the provision of appropriate community, health and retail facilities has been submitted to and approved in writing by the Local Planning Authority; for the purposes of this condition such a scheme is one which ensures the provision of community hall facilities
- (d) secures the safe implementation of the works; and
  - (e) ensures that they are made available to the public before the occupation of any dwelling on the site; and
  - (f) identifies arrangements, including financial arrangements where appropriate, for long term maintenance, inspection and insurance of the facilities such that they are available to the public in perpetuity.
- 29) No development shall take place until full details of the precise routes, surfacing and construction details of any footways, cycle routes and any other permissive rights of way have been submitted to and approved by the Local Planning Authority in writing. The work shall be carried out thereafter in strict accordance with those details.
- 30) The development hereby approved shall be carried out in such a manner as to avoid damage to the existing trees, including their root system, or other planting to be retained as part of the landscaping scheme by observing the following:
- (g) All trees to be preserved shall be marked on site and protected during any operation on site by a fence erected at 0.5 metres beyond the canopy spread (or as otherwise agreed in writing by the Local Planning Authority).
  - (h) No fires shall be lit within the spread of the branches of the trees.
  - (i) No materials or equipment shall be stored within the spread of the branches of the trees.
  - (j) Any damage to trees shall be made good with a coating of fungicidal sealant.
  - (k) No roots over 50mm diameter shall be cut and unless expressly authorised by this permission no buildings, roads or other engineering operations shall be constructed or carried out within the spread of the branches of the trees.

- (l) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level, except as may be otherwise agreed in writing by the Local Planning Authority.
- 31) No development shall take place until details of plans for surface water drainage have been first submitted and approved in writing by the Local Planning Authority. The approved details shall be implemented in their entirety.
- 32) Before any dwelling is occupied, there shall be constructed a margin, adequate to ensure the maintenance and repair of the earth mound, between the boundary fence and toe of the proposed acoustic bund/earth mound in accordance with details which have been first submitted to and agreed in writing by the Local Planning Authority.
- 33) No earthworks shall take place within twenty metres of the motorway (M20) unless the layout design and method of construction are first agreed with the Local Planning Authority in writing.
- 34) The completed layout of the site shall be designed and constructed so that the beams from the headlights of vehicles using the site shall not cause a hazard or distraction to motorway users on the M20. This shall be achieved either in accordance with the details approved in relation to the other conditions in this permission or in accordance with any additional measures necessary to satisfy this condition, to be approved by the Local Planning Authority in writing.
- 35) No development shall be commenced until the A228 Leybourne-West Malling Bypass ("the Bypass") has been constructed and is open to the public and the improvements to Junction 4 of the M20, namely:
  - (i) Widening of the western bridge to 4 lanes;
  - (ii) Widening of / alterations to the circulatory carriageway of the roundabout to be associated with the widening of the western bridge and the improvement of the westbound diverge;
  - (iii) Widening of / alterations to the circulatory carriageway of the roundabout to be associated with the improvement of the eastbound merge and diverge;
  - (iv) Improvement of the westbound diverge;
  - (v) Improvement of the eastbound diverge;
  - (vi) Improvement of the eastbound merge;

as shown indicatively on Plan No. TUE91005A/500/D have been carried out and are open to the public,

### **UNLESS**

proposals for securing the construction of the Bypass and the improvements to Junction 4 in conjunction with the development of the site at Kings Hill have first been submitted to and approved in writing by the local planning authority (in consultation with the Highways Agency and Kent County Council), in which case the development may not be commenced or occupied save in accordance with the approved proposals. The proposals submitted and approved in accordance with

this condition must comply with the requirements of sub-paragraphs (b) to (e) below.

- (a) Subject to the proviso set out in sub paragraph (e) of this condition the proposals submitted and approved pursuant to sub paragraph (a) of this condition must be consistent with ensuring that development at Leybourne Grange and Kings Hill together cannot be occupied without the Bypass and improvements to Junction 4 appropriate to that combination of developments (as shown on the table below) being in place and open to the public.

Scenario	Sites	MOR	Western Bridge	Circ C/way	WB Diverge	EB Merge	EB Diverge	WB Merge
1	HV, LG & KH	X	X	X	X	X	X	X
2	HV	X	X		X			
3	LG	X	X		X			
4	HV & LG	X	X		X			
5	KH	X	X	X	X			
6	KH & HV	X	X	X	X	X	X	
7	KH & LG	X	X	X	X	X	X	

For the avoidance of doubt and subject to the proviso set out in sub paragraph (e) of this condition the proposals must be consistent with all the improvements to Junction 4 being carried out and open to the public before the last of the two developments is first occupied.

- (c) Subject to the proviso set out in sub paragraph (e) of this condition the proposals submitted and approved pursuant to sub paragraph (a) of this condition must in any event require that no development shall be occupied until the Bypass has been constructed and is open to the public and the improvements to Junction 4 of the M20 works described in sub paragraph (a) (i), and (iv) of this condition have been completed and are open to the public.
- (d) The proposals submitted and approved may if appropriate provide for the implementation and occupation of the Leybourne Grange development before some or all of the improvement works specified in sub-paragraph (a) (ii), (iii), (v) and (vi) above are carried out provided the proposals are consistent with (b) above.
- (f) If the proposals submitted and approved pursuant to sub-paragraph (a) of this condition provide for the Bypass and for the works mentioned in sub-paragraph (c) to be secured by the developers of the proposed Leybourne Grange development, then the proposals may if appropriate allow for a part of the proposed development (“the Enabling Part”) to be occupied before the works mentioned in sub-paragraph (c) are completed,

## PROVIDED THAT

- (i) the said proposals shall ensure that no greater part of the proposed development shall be constructed as the Enabling Part than that which would generate traffic which (either alone or together with the traffic generated by any other development in respect of which the developer or developers have entered or are anticipated in the said proposals to enter an agreement to secure the construction of the Bypass and/or the other works mentioned in sub-paragraph (a)) would add more than 240 vehicles per hour to the total morning peak traffic anticipated to use Junction 4 of the M20; and,
  - (ii) the Enabling Part shall not be commenced until contracts are let for the construction of the Bypass and the other works mentioned in sub-paragraph (c) are secured by an agreement under the Highways Act 1980 s.278 or other legal agreement.
- 36) Prior to the occupation of any dwelling, a new access road shall be constructed to base course linking the Development to the A20 as shown on Boreham Consulting Engineers' drawings number 200132/4A and 200132/5A, unless otherwise agreed in writing by the Local Planning Authority.
- 37) Prior to the occupation of any dwelling a new roundabout shall be constructed at the junction of the access road to the Development and A20 as shown on Boreham Consulting Engineers' drawing number 200132/3A, unless otherwise agreed in writing by the Local Planning Authority.
- 38) Access to any dwelling from Birling Road or Park Road shall not be permitted until the 401<sup>st</sup> dwelling has been occupied. Public service vehicles excluded
- 39) Prior to the occupation of any dwelling accessed from Birling Road or Park Road or the Leybourne and West Malling Bypass (the MOR), a new shared pedestrian/cycleway shall be constructed along the northern side of Park Road as shown on Boreham Consulting Engineers' drawing number 200132/6A.
- 40) No construction vehicles from the Development shall use Birling Road or Park Road or the Castle Way/Park Road junction unless otherwise agreed in writing with the Local Planning Authority.

### Holborough Valley

53. For the reasons given above the Secretary of State is minded to allow the appeal by Trenport Investments Limited and grant outline planning permission for formation of new development platforms and residential development, provision of reserve primary school site; buildings for community activities including doctor's surgery; highway, pedestrian and cycle access, open space and landscaping on land comprising the former Holborough Valley and adjoining parcels, Holborough Road, Snodland, Kent [TM/01/02746/OLEA] , if the appellants agree to make a appropriate contribution towards the A20 Bus Priority Scheme, subject to the following conditions:

- 1) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the

date of approval the last of the reserved matters to be approved, whichever is the later.

- 2) Approval of details of the siting, design and external appearance of the building(s), and the landscaping of the site (hereinafter called the “reserved matters”) shall be obtained from the Local Planning Authority.
- 3) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of ten years from the date of this permission.
- 4) The development hereby permitted shall be carried-out substantially in accordance with the submitted Master Plan for the development as shown on drawing number 029/MP01/B.
- 5) Before any development commences on the application site, a scheme for the phasing of the development of the entire site shall be submitted to and approved by the Local Planning Authority in writing. This scheme shall include proposals for the provision of:
  - The first 100 units to be developed, including details of their location.
  - The bus link to Constitution Hill.
  - The community facilities.
  - The Reservation of a Primary School site of 2 ha.
  - The Reservation of a site of 0.2ha – 0.3ha. for Primary Care medical facilities.
  - The structural landscaping, incidental recreational space and the provision of the bund adjoining the Medway Cement Works.
  - Pedestrian, footpath and cycle links.
- 6) No development shall take place within the site until there has been secured the implementation of a programme of archaeological work (including the recording of any buildings which may have an industrial archaeological interest) in accordance with a written scheme of investigation (including a timetable for such investigation) which has been submitted to and approved by the Local Planning Authority in writing. The scheme shall thereafter be implemented in accordance with the approved details.
- 7) No development of any phase shall take place in accordance with condition 5. until details and samples of all materials to be used externally have been submitted to and approved by the Local Planning for the buildings in that phase in writing. The development shall be carried out in accordance with the approved details.
- 8) No development shall commence until details of a scheme for the storage and screening of refuse for individual or groups of buildings in that phase has been submitted to and approved by the Local Planning Authority in writing. The approved scheme shall be implemented before the development is occupied and shall be retained at all times thereafter.
- 9) The details submitted in pursuance of Condition 1 shall include a contoured site plan and indicate the level of the ground floor slab level of any building proposed to be constructed.
- 10) The development of the site as a whole shall not take place at a density of less than 30 dwellings per hectare. Each submission of reserved matters for dwelling units shall

include a calculation of density, including a cumulative overall density. Density shall be calculated in accordance with the criteria set out in Annex C to Planning Policy Guidance Note Number 3 (*Housing*).

11) Before the development of any phase approved in accordance with Condition 5 commences on the application site, a scheme for the provision of structural landscaping within the site shall be submitted to and approved by the Local Planning Authority in writing. The details submitted in pursuance of condition 1 shall be accompanied by a scheme of landscaping and boundary treatment (including proposals for the school reservation site) which shall include:

- A tree survey specifying the position, height, spread and species of all trees on the site,
- Provision for the retention and protection of existing trees and shrubs and,
- A date for completion of any new planting and boundary treatment.

The scheme as approved by the Local Planning Authority in writing shall be implemented by the approved date or such other date as may be agreed in writing by the Local Planning Authority. Any trees or plants which within ten years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Authority gives written consent to any variation.

12) No development shall be commenced until:

(a) a site investigation has been undertaken to determine the nature and extent of any contamination, and the results of the investigation, together with an assessment by a competent person and details of a scheme to contain, treat or remove any contamination, as appropriate, have been submitted to and approved by the Local Planning Authority in writing. The assessment and scheme shall have regard to the need to ensure that contaminants do not escape from the site to cause air, and/or water pollution and/or pollution of adjoining land.

The scheme submitted pursuant to (a) shall include details of arrangements for responding to any discovery of unforeseen contamination during the undertaking of the development hereby permitted. Such arrangements shall include a requirement to notify the Local Planning Authority in writing of the presence of any such unforeseen contamination.

Prior to the first occupation of the development or any part of the development hereby permitted:

- (b) the approved remediation scheme shall be fully implemented insofar as it relates to that part of the development which is to be occupied, and
- (c) a Certificate shall be provided to the Local Planning Authority by a person nominated to and acceptable to the Local Planning Authority stating that remediation has been completed and the site is suitable for the permitted end use. Thereafter, no works shall take place within the site such as to prejudice the effectiveness of the approved scheme of remediation.

- 13) No development shall take place until details of noise mitigation have been submitted to and approved by the Local Planning Authority in writing. The details submitted shall:-
- (a) Specify the measures (including siting, screening, orientation/aspect, building height) to be used to ensure that no facades of buildings containing windows to habitable rooms will be exposed to a predicted level of road traffic and mixed source noise (assessed on levels expected in the year 2018) in Noise Exposure Categories C or D of the Tonbridge and Malling Local Plan Policy P3/17.
  - (b) include a scheme of acoustic protection of habitable rooms having windows that will be exposed to a level of road traffic and mixed source noise in Noise Exposure Category B of the Tonbridge and Malling Local Plan Policy P3/17.
- 14) The scheme shall be sufficient to secure internal noise levels no greater than 30  $L_{Aeq}$  dB in bedrooms and 40  $L_{Aeq}$  dB in living rooms with windows closed. Additionally, where the internal noise levels will exceed 40  $L_{Aeq}$  dB in bedrooms or 48  $L_{Aeq}$  dB in living rooms with windows open the scheme of acoustic protection shall incorporate appropriate acoustically screened mechanical ventilation. Mechanical ventilation shall also be provided to bedrooms having openings into facades that will be exposed to a level of road traffic noise and/or mixed source noise in excess of 78  $L_{Amax}(slow)$  time weighting. The approved scheme shall be implemented prior to the first occupation of the dwelling to which it relates and shall be retained at all times thereafter.
- 15) Detailed plans referred to in condition 1 of this permission shall provide for car parking at an average maximum standard of 1.5 off-street car parking spaces per dwelling. The dwellings hereby approved shall not be occupied until provision for parking has been made within the site in accordance with the agreed details, and such provision shall thereafter be permanently kept available for the parking of vehicles.
- 16) Before the commencement of development the method of deep piling foundations shall be submitted to and approved in writing by the Local Planning Authority. The method should include the removal of any contaminated material which shall be removed from the piling location before any deep piling takes place. The development shall be carried out in strict accordance with the approved method.
- 17) No more than 100 units in the location approved in accordance with condition 5. shall be occupied prior to the construction of the landscaped bund approved under planning reference TM/01/02748/FL or TM/95/785 (the Medway Works permission).
- 18) Development shall not begin until a scheme of foul and surface water drainage has been submitted to and approved by the Local Planning Authority in writing. The development shall be carried out strictly in accordance with the approved details.
- 19) No building shall be occupied until the main site access and that part of the service road which provides access to it, has been constructed in accordance with the approved plans.
- 20) The access drive to each property or courtyard shall be constructed no steeper than 1 in 14.3 for the first 4.5 metres from the edge of the highway and no steeper than 1 in 8 on any other part.

- 21) No individual accesses shall be used until vision splays of 2m x 2m x 45° between the driveway and the back of the footway have been provided. The area of land within these vision splays shall be reduced in level as necessary and cleared of any obstruction exceeding a height of 0.6m above the level of the nearest part of the carriageway. The vision splays so created shall be retained at all times thereafter.
- 22) Non-residential premises shall not be occupied until the area shown on any approved plan as vehicle parking, loading and off-loading and turning space has been surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any order amending, revoking and re-enacting that Order) shall be carried out on that area of land or in such a position as to preclude its use.
- 23) No development shall be commenced on the site until provisions have been made to ensure that, in the event of the A20 bus priority improvement scheme being carried out in accordance with a scheme to be prepared and approved by Kent County Council, adequate measures are taken by the owner(s) and/or the developer(s) of the site to secure the implementation of the works. Before any development on the site is commenced, it shall be confirmed in writing by the Local Planning Authority that these arrangements have been entered into.
- 24) Development shall not begin until the junction between the proposed service road and Holborough Road (to include Ladds Lane) has been constructed in accordance with written details to be submitted to and approved by the Local Planning Authority.
- 25) No more than 300 units shall be occupied until the link between the proposed site road and Cemetery Lane, to include the bus gates and junction details, has been constructed in accordance with written details submitted to and approved by the Local Planning Authority.
- 26) Development shall not begin until details of the junctions between the proposed footpaths/cyclepaths and Covey Hall Road and Holborough Road have been approved by the Local Planning Authority in writing. No building shall be occupied until those footpaths/cyclepaths and junctions have been constructed in accordance with the approved details in accordance with the Phasing provisions approved in compliance with Condition 5.
- 27) No soakaway shall be sited in, or allowed to discharge into or through, made ground or land previously impacted by contamination.
- 28) Development shall not begin until details of a chalk grassland management plan has been submitted to and approved by the Local Planning Authority in writing. This shall include full details of, and method for use of, the translocation holding area and the permanent translocation area, together with the long-term management thereof, as defined in the Environmental Statement. Upon approval, the plan shall be implemented as approved.
- 29) Development shall not begin until an ecology mitigation strategy has been submitted to and approved by the Local Planning Authority in writing. The strategy shall set out method statements for protecting:
  - Badgers

- Amphibians
- and Reptiles

during and subsequent to development in accordance with the factors identified in the Environmental Statement. Upon approval, the strategy shall be implemented as approved.

- 30) No street lighting, footway or footpath or other lighting serving public areas shall be installed unless details of such lighting have first been submitted to and approved by the Local Planning Authority in writing. Any such work shall be carried out in strict accordance with those details.
- 31) No development shall take place until full details of the precise routes, surfacing and construction details of any footways, cycle routes and any other permissive routes have been submitted to and approved by the Local Planning Authority in writing. The work shall be carried out in strict accordance with those details.
- 32) No building of any Phase of the development approved in accordance with Condition 5 hereby permitted shall be occupied until underground ducts have been installed by the developer to enable telephone, electricity and communal telephone services to be connected to any premises within the site without recourse to the erection of distribution poles and overhead lines and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any order amending, revoking and re-enacting that Order), no distribution pole or overhead line shall be erected within the area expect with the express written consent of the Local Planning Authority.
- 33) (a) No development shall be commenced until the A228 Leybourne-West Malling Bypass ("the MOR") has been constructed and is open to the public and the improvements to Junction 4 of the M20, namely:
- (i) Widening of the western overbridge to 4 lanes;
  - (ii) Widening of / alterations to the circulatory carriageway of the roundabout to be associated with the widening of the western overbridge and the improvement of the westbound diverge;
  - (iii) Widening of / alterations to the circulatory carriageway of the roundabout to be associated with the improvement of the eastbound merge and diverge;
  - (iv) Improvement of the westbound diverge;
  - (v) Improvement of the eastbound diverge;
  - (vi) Improvement of the eastbound merge;
  - (vii) Improvement of the westbound merge

(as shown indicatively on Plan No. TUE91005A/500/D) have been carried out and are open to the public,

UNLESS proposals for securing the construction of the MOR and the improvements to Junction 4 in conjunction with the development of Holborough Valley and the development of the other sites at Kings Hill and Leybourne Grange have first been submitted to and approved in writing by the Local Planning Authority (in consultation with the Highways Agency and

Kent County Council), in which case the development may not be commenced or occupied save in accordance with the approved proposals. The proposals submitted and approved in accordance with this condition must comply with the requirements of sub-paragraphs (b) to (e) below.

- (b) Subject to the proviso set out in sub paragraph (e) of this condition the proposals submitted and approved pursuant to sub paragraph (a) of this condition must be consistent with ensuring that no combination of the developments at Kings Hill, Holborough Valley or Leybourne Grange can be occupied without the MOR and improvements to Junction 4 appropriate to that combination of developments (as shown on the table below) being in place and open to the public.

Scenario	Sites	MOR	Western Bridge	Circ C/way	WB Diverge	EB Merge	EB Diverge	WB Merge
1	HV, LG & KH	X	X	X	X	X	X	X
2	HV	X	X		X			
3	LG	X	X		X			
4	HV & LG	X	X		X			
5	KH	X	X	X	X			
6	KH & HV	X	X	X	X	X	X	
7	KH & LG	X	X	X	X	X	X	

For the avoidance of doubt and subject to the proviso set out in sub paragraph (e) of this condition the proposals must be consistent with all the improvements to Junction 4 being carried out and open to the public before the last of the three developments is first occupied.

- (c) Subject to the proviso set out in sub paragraph (e) of this condition the proposals submitted and approved pursuant to sub paragraph (a) of this condition must in any event require that no development shall be occupied until the Bypass has been constructed and is open to the public and the improvements to Junction 4 of the M20 works described in sub paragraph (a) (i) and (iv) of this condition have been completed and are open to the public.
- (d) The proposals submitted and approved may if appropriate provide for the implementation and occupation of the Leybourne Grange development before some or all of the improvement works specified in sub-paragraph (a)(ii),(iii),(v),(vi) and (vii) above are carried out provided the proposals are consistent with (b) above.

- (e) If the proposals submitted and approved pursuant to sub-paragraph (a) of this condition provide for the Bypass and for the works mentioned in sub-paragraph (c) to be secured by the developers of the proposed Holborough Valley development, then the proposals may if appropriate allow for a part of the proposed development (“the Enabling Part”) to be occupied before the works mentioned in sub-paragraph (c) are completed,

**PROVIDED THAT**

- (i) The said proposals shall ensure that no greater part of the proposed development shall be constructed as the Enabling Part than that which would generate traffic which (either alone or together with the traffic generated by any other development in respect of which the developer or developers have entered or are anticipated in the said proposals to enter an agreement to secure the construction of the Bypass and/or the other works mentioned in sub-paragraph (a)) would add more than 240 vehicles per hour to the total morning peak traffic anticipated to use Junction 4 of the M20; and
- (ii) the Enabling Part shall not be commenced until contracts are let for the construction of the Bypass and the other works mentioned in sub-paragraph (c) are secured by an agreement under the Highways Act 1980 s.278 or other legal agreement.

- 34) No more than 300 dwellings within the development shall be occupied before the works to the A228/Leybourne Way junction as shown on drawing number JNY3068/62D have been completed in accordance with details submitted to and approved in writing by the Local Planning Authority.

54. For the reasons given above the Secretary of State is minded to allow the appeal by Trenport Investments Limited and grant planning permission for the provision of playing fields as extension to existing facilities, on agricultural land north of Paddlesworth Road, adjoining existing playing fields, Snodland, Kent (ref: TM/01/02747/FLEA); if the appellants agree to make an appropriate contribution towards the A20 Bus Priority Scheme, subject to the following conditions:

- 1) The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
- 2) No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping and boundary treatment. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following the completion of the playing fields or the occupation of the buildings whichever is the earlier. Any trees or shrubs which are removed, are dying, being seriously damaged or diseased within ten years of planting shall be replaced in the next planting season with trees or shrubs of similar size and species, unless the Local Planning Authority gives written consent to any variation. The development shall be completed in accordance with the approved details.

55. For the reasons given above the Secretary of State is minded to allow the appeal by Trenport Investments Limited and grant planning permission for the formation of a landscaped bund on land forming part of the former Holborough Quarry, Holborough Road, Snodland, Kent (TM/01/02748/FLEA); if the appellants agree to make an appropriate contribution towards the A20 Bus Priority Scheme, subject to the following conditions:

- 1) The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
- 2) The scheme of landscaping shown on the approved plans shall be carried out in the first planting season following the completion of the bund. Any trees or plants which within ten years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
- 3) This permission shall not be exercised independently of any planning permission granted under reference no:- TM/01/02746.

56. The Secretary of State wishes to be provided with a planning obligation that complies with section 105 of the Town and Country Planning Act 1990 providing for a satisfactory contribution towards the A20 Bus Priority scheme within four weeks of the date of this letter (that is by 2 September 2004) in order to reach a decision as to whether permission should be granted for the Holborough Valley development. Please note that the Secretary of State is not inviting representations on the merits of the case, and parties are asked to restrict any views to the matters set out above.

#### **Distribution of this Letter**

57. Copies of this letter have been sent to Tonbridge and Malling Borough Council, all those who appeared at the inquiry and anyone who has made written representations requesting a copy of the decision.

Yours faithfully

**Rebecca Carpenter**

Authorised by the First Secretary of State  
to sign in that behalf